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The Reports of Sir Edward Coke

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1727

### The Reports of Sir Edward Coke Kt., in English, Compleat in Thirteen Parts: The Eleventh Part of the Reports of Sir Edward Coke Kt., Her Majesty's Attorney General

Sir Edward Coke

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The Eleventh PART of the  
**R E P O R T S**  
O F  
*Sir Edward Coke, Kt.*  
Chief Justice of *ENGLAND,*

O F

Pleas to be held before the King himself assign'd,  
and of the Privy Council of State: Of divers Resolu-  
tions and Judgments given on solemn Arguments, and  
with great Deliberation and Conference of the most Reve-  
rend Judges and Sages of the *L A W*, of Cases in *L A W*,  
which were never resolved or adjudged before: And the  
Reasons and Causes of the said Resolutions and Judgments.

Published in the Thirteenth Year of the Most High and Most  
Illustrious *J A M E S* King of *England, France and Ireland,* and  
of *Scotland*, the 49th, the Fountain of all Piety and Justice, and  
the Life of the *L A W*.

With REFERENCES to all the BOOKS of the  
*COMMON LAW*, as well Ancient as Modern.

*Simplicitas Justorum diriget eos; & supplantatio perversorum vastabit eos.* PROV. cap. 11. ver. 3.

*Non roborabitur homo ex impietate; radix autem Justorum non commovebitur.* PROV. cap. 12. ver. 3.

*Compendaria res improbitas, virtus longa.*

*Compendia, sunt dispendia.*

In the *SAVOR*:

Printed by E. and R. NUTT, and R. GOSLING,  
(Assigns of *Edward Sayer, Esq;*) for D. BOPUNE,  
J. WALTHOE, W. LINTOT, R. GOSLING, W. BEARS,  
T. WARD, W. JAMES, J. OSBORN, J. HOOKE,  
T. WOODWARD, F. CLAY, L. WOOTTON, R. WILLIAM-  
SON, and A. WARD.

M. DCC. XXVII.



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# Deo, Patriæ, Tibi.

**M**ultos scribendi Libros, dicit Solomon, nullus est finis; quod intelligitur de hiis, qui nec metam sibi, nec finem proponunt aliquem: Loco igitur Præfationis (Docte Lector) substantantiam Casuum in hoc undecimo opere meo emissorum, paucis edocere decrevi; quo facile eorundem finem & intentionem colligere possis.

In primo loco, casum Baronis *la Ware*, decretum in Parlamento Anno 39 *Eliz.* tento retuli; ubi constat de inhabilitatibus personalibus & temporariis, quæ

**O**f writing many Books, saith Solomon, there is no End; which is understood of such as are written to no End: I mean therefore, Learned Reader, by way of Preface, to propose unto you in few Words, the Substance of the Cases in this Eleventh Work, whereby you will easily collect the End and Scope of the same.

1. In the first Place, I report the Case of the Lord *la Ware*, resolved in Parliament holden in the 39th Year of the Reign of Queen Elizabeth; wherein appeareth what

A 2                      Disabilities

## To the READER.

*Disabilities are personal and temporary, and barreth not the Heir to claim Honour and Dignity from that Ancestor so disabled, or from any other Ancestor paramount him; and also what Disabilities are in Law absolute and perpetual.*

2. *In the second Place, followeth Auditor Curle's Case, resolved in the 7th Year of the most happy Reign of King James: In this Case is resolved, that judicial Offices cannot be granted in Reversion, but that generally such Grants by the Common Law of England, are utterly void, and therefore though this Case be calculated for the Meridian of the Court of Wards, yet by computation, it may serve for all the Judicial Courts of England: A necessary Case, I assure you, to be published, and the Law to be put in Ure in these Days: In which Case are also handled some other particular Points concerning the Office of the said Auditorship in the Court of Wards.*

hæredem a vindican-  
do titulos & dignita-  
tes ab antecessore sic in-  
habilitato, seu ab aliquo  
alio superiore antecessore,  
non impediunt; &  
de Inhabilitatibus in lege  
absolutis & perpetuis.

2. Sequitur in secundo loco casus Auditoris Curle, Anno septimo felicissimi regni Regis nostri Jacobi adjudicatus: In hoc casu Judicialia Officia in reversione concedi non posse, immo omnes hujusmodi concessionem generaliter per communem legem Angliæ penitus esse irritas determinatur, ideoque licet casus iste ad Meridianum Curia Pupillorum calculetur, per computationem tamen, omnibus Angliæ Curiis Judicialibus inserviat: Casus proculdubio in lucem proferri necessarius, & Lex hisce temporibus debitæ executioni demandanda; ubi etiam multa tractantur particulariter de Officio dicti Auditoris

## To the READER.

manare potest, & e contra.

12. Quin & ut declin' error in arrogandis mult'is pro contemptibus in Letis & aliis curiis de recordo, in casu Ricardi Godfrey armigeri delucide decernitur, ubi oportet multam esse separalem & ubi conjunctam, & quomodo multa illigitime imposita evitetur, & quando Dominus pro certo Leti distringere potest. Mich. 12. Jac.

13. Casus Ricardi Liford locum sequentem merito sibi obtinuit; quia in eo adjudicatur, quid interesse Firmarius habet in arboribus structuræ idoneis quando non sunt exceptæ; & quid interesse in eodem casu est Locatori, & quid & quale interesse Firmarius habet in arboribus exceptis, & utrum in eodem casu per generalem concessionem reversionis transferuntur illicui concessio facta fuit, cum multa eruditione de hac re necessaria. Mich. 12. Jacobi.

*Judgment or Award it lieth not.*

12. And to avoid Error in imposing of Fines upon Contempts in Leets, and other Courts of Record, in the Case of Richard Godfrey, Esq; is clearly resolved, when the Fine ought to be severall, and when joint, and when and how a Fine unlawfully imposed, may be avoided, and when the Lord may distress for Court Leets. Mic. 12. Jac.

13. The next Room Richard Liford's Case hath justly gotten, for therein is resolved, what Interest the Lessee hath in Timber Trees, when they are not excepted, and what Interest in that Case the Lessor hath: What and what manner of Interest the Lessor hath in Trees excepted, and whether, in that Case by a general Grant of the Reversion, they pass to the Grantee, and much necessary Learning concerning that Matter. Mich. 12. Jac.

14. Then

To the READER.

Auditoris Curiae Pupillorum.

3. Casus deinde accedit *Johannis Heydon*, equitis, Termino Trinitatis anno decimo *Jacobi* Regis determinatus; in quo perspicue ostenditur, ubi damna separaliter taxabuntur per Juratores, & ubi primus duodecemviratus inter quaerentem & unum defendantium, taxabit damna, pro omnibus defendantibus, & ubi non: Unde libri inter se pugnantés optime reconciliantur; qui dum minus recte intelligebant, multa arrestata fuerunt Judicia & multa, quæ lata fuerunt, per Breve de Errore subversa fuerunt, ad immensum dispendium, moram, & vexationem partis gravatæ.

4. Post hunc se apperit casus de *Priddle & Napper* de Termino Michaelis anno decimo *Jacobi* Regis: in quo edocetur quæ unitas juxta Statutum de anno tricesimo primo *Hen. Octavi*, ad exoncrandam terram

3. *Then cometh in Sir John Heydon's Case, adjudged in Trinity Term 10 Regis Jacobi; where in is perspicuously expressed, where Damages shall be severally assessed by the Jurors; and where the first Jury between the Plaintiff, and one of the Defendants shall assess Damages for all the Defendants, and where not; whereby all the Books are well reconciled; for want of right Understanding whereof, many Judgments have been arrested, many that have been given, have been overthrown by Writ of Error, to the great Charge, Delay, and vexation of the party grieved.*

4. *After this appeareth the Case of Priddle and Napper, in Mich. 10 Jacobi Regis; and therein is set down what Unity is sufficient within the Statute of 31 H. 8. to discharge the Land of Tithes, with divers other*

## To the READER.

*Points concerning the same.*

5. Next after, Doctor Graunt's Case presenteth itself, adjudged Mich. II. Jacobi Regis, whereby you may see where Parsons and Vicars may have certain Tithes for Houses in Cities, Boroughs, &c.

6. Then you shall read the Case of Sir Henry Nevill, adjudged Mich. II. Jacobi Regis: And understand that a customary Manor may be holden by Copy, and that such a Lord may hold Courts, and grant Copies.

7. Now cast your Eye upon Doctor Ayraye's Case, adjudged Mich. II. Regis Jacobi; wherein you shall perceive what be material Misnamings of Corporations, either to avoid their own Grants by mistaking their own Name, or Grants made to

de Decimis fatis est, cum diversis aliis de eadem re Articulis.

5. Proxime se representat casus Doctoris Grant, Termino Michaelis anno undecimo Regis Jacobi decretus; unde videre est, in quo casu Rectores & Vicarii habere possunt quasdam decimas pro domibus in Civitatibus, Burgis, &c.

6. Casum deinde evolvit Henrici Nevill, Equitis, Termino Michaelis anno undecimo Jacobi Regis adjudicatum, unde manerium Customarium per transcriptum Apographum sive (ut loquimur) per copiam teneri posse, tum & hujusmodi Dominum Curias tenere, & transcripta concedere posse intelliges.

7. In Doctoris Ayraye casum, de Termino Michaelis anno undecimo Regis Jacobi, jam oculos intendas: In quo, quæ sunt materiales male nominationes Corporationum, tam ad proprias suas concessionem, quam ad concessionem in  
eas



## To the READER.

eas collatas ob errorem proprii nominis enervandas. Casus sane, qui non solum Collegiorum & aliarum Corporationum, sed etiam Firmariorum aliorumq; sub iis rem sibi vendicantium commodum spectat & tranquillitatem.

8. Dehinc oculis vestrum subjicitur *Henrici Harpur* casus, Termino Trinitatis anno duodecimo *Jacobi Regis*, judicatus: in quo viri edocentur, Quomodo, hii qui tenent de Rege per servitium militare in capite, duas partes terrarum suarum &c. pro debitis suis solvendis, uxore efferenda, & filiis natu minoribus promovendis vel aliter secundum lege possunt disponere, nullam omnino post obitum suum inter hæredem & Legatarios inquietationem seu questionem relicturi: Ignorantia cujus, si non destructionis, magni tamen familiar' multarum damni in causa hucusque fuit.

9. Perinde *Henrici Pigot* casum retuli, ad Le-

*them; a Case that concerns the Good and Quiet, not only of Colleges and other Corporations, but of their Farmers, Lessees, and other that claim under them.*

8. Then is offered to your View *Henry Harpur's Case, resolved, Trin' 12 Jacobi Regis; wherein Men are directed how the King's Tenant that holdeth by Knights Service in capite, may dispose two Parts of his Lands, &c. for the Payment of his Debts, Advancement of his Wife, Preferment of his younger Children, or otherwise according to Law, and leave no Trouble or Question, after his Death, between his Heir and the Devisees; the Want of Knowledge whereof hath tended, if not to the undoing, yet to the great Hindrance of many Families.*

9. Next to this, have I reported *Henry Pigot's Case,*

To the R E A D E R.

*Case, adjudged Trin. 12. Jacobi Regis, to instruct the Reader what Alteration of any Deed after the Ensealing and Delivery, and by whom, avoideth the Deed.*

10. *By this Time I presume you have expected, and desired to see the Case of Alexander Poulter, that most wickedly and feloniously burnt the good Town of Newmarket, who upon Consideration of many intricate and ill-penned Statutes, in the End was clearly (as you shall perceive) ousted of his Clergy: wherein many notable and observable Points concerning Clergy, which by a mean Concern the Life of Man, are resolved Mich.*

12. Jacobi Regis.

11. *Ana lest there should be Error in bringing of a Writ of Error, Metcalfe's Case, Mich.*

12. *Jac. hath gotten the next Place: Wherein is plainly discussed, upon what Judgment or Award a Writ of Error doth lie, and upon what*

storem instruendum, qualis immutatio alicujus scripti post figillationem & deliberationem, & per quem vacuum reddit scriptum.

10. Te demum expectaturum & optaturum opinor, casum *Alexandri Poulter*, ævi sceleratissime & felonice oppid' illud lautum *Newmarket* incendebat; qui post considerationem variorum Statutorum perplexorum & male compositorum tandem (ut observes) a beneficio clericatus penitus fuit exclusus: Quo etiam multa imprimis notanda de Clericatu, ad vitam hominis quodam modo spectant' determinantur.

11. Ac ne erratum esset in ferendo Breve de Errore, casus *Metcalfe de Termino Michaelis* anno duodecimo *Jacobi* Regis proximam sibi sedem fortitus est; ubi plene discussum est, super quo judicio sive arbitrio Breve de Errore emanare

## To the READER.

14. *Then have you the Case of the Taylors of Ipswich, a necessary Case for poor Tradesmen, that many Times are by Ordinances made by Incorporations (whereby the publick Good is pretended, and private Respects intended) barred or hindered of their Freedom of their Trade.* Mich. 12. Jac.

15. *Edward Saul's Case taketh up a very little Standing, and shortly sheweth that an Ejection firmæ, (that now is grown so common) lieth not for a Place known, but of certain Acres of Land, Meadow or Pasture, &c.* Mich. 12. Jac.

16. *And Bentham's Case in as few Words as the other, sheweth how in some Case the Omission of Matter material in a Verdict may be saved.* Mich. 12. Jac.

17. *I could not keep back Dr. Foster's Case, wherein, upon mature*

14. *Deinceps operatorum pannorum Gipvicensium habes casum, valde necessarium pauperibus Mechanicis, qui multoties colore ordinationum constitutarum per incorporationes (in quibus bonum publicum prætenditur, privatam vero intenditur) a libero usu artium suarum excludentur vel saltem impediuntur.* Mich. 12. Jac.

15. *Edwardi Saul casus limites non ita latos occupat, sed breviter ostendit, quod breve de Ejectione firmæ (quod in usum frequentiore jam accrevit) de loco certo nomine tantum denotato usurpari non potest, sed de jugeribus fundi, prati, pasturæ, &c.* Mich. 12. Jac.

16. *Porro Benthami casus adeo paucis declarat verbis, quomodo omisso rei materialis in veredicto nonnunquam suppleri potest.* Mich. 12. Jac.

17. *Nec casum Doctoris Foster, retinere potui, in quo, maturam post*

## To the READER.

post considerationem habitam de omnibus statutis in Sacrifices editis, via aperta recluditur pro eorum merita & festina juxta leges convictione. Et hic sane casus enarrat gloriam Dei & Religionis nostræ honor'. Mich. 12. *Jacobi.*

18. Insuper casus Magdalenensis Colleg' in Cantabrigia, proximum ex merito sibi locum vendicat, qui tendit ad sustentationem veræ Dei Religionis, elevationem artium liberalium & Scientiarum, supportationem status Ecclesiastici, præservationem & Prosperitatem ambarum illarum fororum celeberrimarum Academiarum Cantabrigiæ & Oxoniæ, ac singulorum hujus regni Collegiorum, necnon ad Zonodiorum & Provisionum pro pauperibus firmamentum: Et adjudicatus fuit Termin' Paschæ 13. *Jac.*

19. In temporis ferie accedit casus *Ludovici Bowles*, in quo, vera operatio ac sensus clausulæ in Dimissionibus, absq;

*Consideration had of all the Statutes of Recusants, a clear Way is opened, for their just and speedy Conviction according to the Laws, a Case that concerneth the Glory of God, and the Honour of our Religion.* Mich. 12. *Jac.*

18. *And justly doth the Case of Magdalen College in Cambridge challenge the next Place: Which tendeth to the Maintenance of God's true Religion, the Advancement of liberal Arts and Sciences, the Supportation of the Ecclesiastical State, the Preservation and Prosperity of those two famous Sisters, the Universities of Cambridge and Oxford, and of all the Colleges within the Realm, and the Establishment of Hospitals, and Provisions for the Poor: Adjudged Paschæ 13. Jac.*

19. *And in Course of Time doth L. Bowles's Case come, wherein, is clearly resolved the true Operation and Sence of the*

## To the READER.

*the Clause in Leases, without Impeachment of Waste; and what Interest the Lessee hath in the Timber of an House prostrated by Tempest: Adjudged Paschæ 13. Jac.*

20. *And though it cometh not in Sequence of Time, yet the Case of Monopolies cannot come out of Time, wherein divers Things concerning Monopolies, are clearly resolved, and worthy to be published. Trin. 44. Eliz.*

21. *And I could not keep back the Earl of Devonshire's Case resolved Hill. 4. Jac. whereby the Prerogative of the King appeareth; That his Right of Restitution dieth not by the Death of the Party that doth him Wrong; the End whereof is, that the King's Toll may come to the right Mill.*

22. *And lastly, the Case of James Bagge, adjudged Trin. 13. Jac. wherein is resolved, where a Writ of Restitution for a Freeman of an Incorporation being disfranchised, doth*

*impetitione vasti, & quid interesse Firmarius habet in Maeremio domus a tempestate plene decernitur prostratæ. Paschæ 13. Jac.*

20. *Et quanquam ordine temporis non sequitur casus Monopoliorum, intempestive tamen adesse non potest; ubi plurima de Monopolis liquide determinantur, quæ in medium proferri digna sunt. Trinitat. 44. Eliz.*

21. *Nec Comitibus Devon' casum adjudicatum Hill. 4. Jacobi, ubi prærogativa Regis in hoc apparet manifeste, Quod jus ejus restitutionis non moritur, per mortem personæ qui injuriam sibi inferebat, celare nequeo, cujus quidem finis est, quod vestigalia Regia ad proprium molendinum dirigantur.*

22. *Casus denique Jacobi Bagge, determinatus Trinitatis 13. Jac. edocet in quo casu Breve Restitutionis pro municipe alicujus incorporationis exorbitatio acquiri potest,*

## To the READER.

potest, & incidenter qui habent potestatem exhibitare, & quæ sunt causæ sufficientes exorbitationis.

Hoc undecimum opus (erudite Lector) in hac tempestate multorum aliorum arduorum & instantium negotiorum emisi; Ideoque (ut in votis mihi fuit) perpolire non potui.

Si mihi in hac re fore Judex liceret, casuum hujusce libri materiam nulli superiorum secundam esse affirmarem. Denique ut fit Deo gloria, Regis Majestati honor, bono publico incrementum, Docto stabiliment' & Studenti instructio, scopus est quem mihi in hac editione proposui.

*lie: And incidently, who have Power to disfranchise, and what be sufficient Causes of Disfranchisement.*

*This Eleventh Work (learned Reader) I have published in the Tempest of many other important and pressing Business; and therefore could not polish them as I desired.*

*If I might judge, I should say, that the Matter of these are not inferior to any of the other. The End of this Edition is, that God may be glorified, his Majesty honour'd, the common Good encreased, the Learned confirmed, and the Student instructed.*



Anno XXXIX

## Reginæ Elizabethæ.

## The Lord De La Ware's Case.

**A**T the Parliament held in anno 39 Regina Eliz. the Case was such: *Thomas la Ware* Knight, Lord *la Ware*, Son and Heir of *William*, Son and Heir of *George*, Brother and Heir of *Thomas*, Son and Heir of *Thomas* Lord *la Ware*, exhibited his Petition to the Queen to this Effect, That whereas the said *Thomas* his Great Grand-father was called to Parliament by Writ of Summons, An. (a) 3 H. 8. and afterwards the said *Thomas* the Great Grand-father died; after whose Death *Thomas* his Son was called to divers Parliaments by Writ of Summons, and afterwards by Act of Parliament, An. 3. E. 6. for divers Causes mentioned in the said Act, it was enacted, That the said *William*, during his Life, should be disabled to claim or enjoy any Dignity or Lordship in any Right, Estate, &c. by Descent, Remainder, or otherwise, and afterwards the said *Thomas*, Son of *Thomas*, died; after whose Death, the said *William* being so disabled, was not called to any Parliament by Writ of Summons, till Queen *Elizabeth* called him to Parliament by Writ of Summons, and sat as Puisne Lord of the Parliament, and afterwards he died; And now the said *Thomas* his Son being called to this Parliament by Writ of Summons sued to the Queen, that he might have the Place in Parliament of his said Great Grand-father, viz. between the Lord *Berkly* and the Lord *Willoughby* of *Ersby*: And the said Petition was endorsed in these Words, *Her Majesty hath*

Dewes Journal  
526, 527, 528;  
529. Cambridg's  
Eliz. 541, 542.  
Dugdale's Baron.  
Tom. 2. fo. 141,  
142. Hughs Abra  
1337.

(a) Dugdale's  
Summad Parliam<sup>t</sup>  
ment. 488.

Raymond  
354. 2 Rol's Rep<sup>t</sup>  
418.

Dugdale's Summi  
ad Parliam<sup>t</sup>  
536.



## The Lord De La Ware's Case. PART XI.

D'ewes Jour-  
nal 526.

commanded me to signify to your Lordships, That upon the humble Suit of the Lord la Ware, she is pleased that the Matter shall be considered and determined in the House, Rob. Cecil: Which Petition being read in the Upper House of Parliament, the Consideration thereof was committed to the Lord Burghley, Lord Treasurer, and divers other Committees; who at his Chamber in Whitehall, heard the Council Learned on both Parties, in the Presence of the two Chief Justices, and divers other Justices; and two Objections were made against the Claim of the said Lord la Ware. 1. Forasmuch as his Father was disabled by Act of Parliament to claim the Dignity, the Petitioner could not convey by him who was disabled, as Heir to his Great Grand-father, and by Consequence he could not have the Place of his Great Grand-father, but his Father's Place.

1 Ventris  
416. Co. Lit. f.  
23. b.

2 Roll. Rep.  
418.

Camden's  
Eliz. 543.

But it was resolved by the Justices, That there was a Difference betwixt a Disability personal and temporary, and a Disability absolute and perpetual: As where one is attained of Treason or Felony, that is an absolute and perpetual Disability by Corruption of Blood, for any of his Posterity to claim any Inheritance in Fee-simple, either as Heir to him, or to any Ancestor above him; but when one is but disabled by Parliament (without any Attainder) to claim the Dignity for his Life, it is a personal Disability for his Life only, and his Heir after his Death may claim as Heir to him, or to any Ancestors above him. The second Objection was, That the said William had accepted of a new Creation of the Queen, which Dignity newly gained, did descend to the Petitioner, which he could not waive, and therefore the Petitioner could not have other Place than his Father had.

To which it was answered and resolved, That the Acceptance of a new Creation by the said William, could not hurt the Petitioner, because the said William was at that Time disabled, and in Truth, was not a Baron, but only an Esquire; so that when the old and new Dignity descend together, the old shall be preferred. Which Resolution was well approved by all the Lords Committees, which was accordingly reported to the Lords of the Parliament, and allowed by them all: Whereupon it was ordered by the Lords, That the Queen should be acquainted with it by the Lord Keeper of the Great Seal, which was done accordingly, and the Queen likewise confirmed it: All which was ordered and entered accordingly: Whereupon, at the same Parliament the Lord de la Ware in his Parliament Robes, was by the Lord Zouch (supplying the

PART XI. The Lord *De La Ware's* Case.

the Place of the Lord *Willoughby*, then within Age) and the Lord *Berkly* also in their Robes, brought into the House, and placed in his said Place, viz. next after the Lord *Berkly*; Garter King of Arms attending upon them, and doing his Office : And I was of Counfel with the Lord *de la Ware*.

Dugdale's  
Summ. ad Parlia-  
ment. 538.

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B 2

Hill.

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## Hill. 7 Jacobi Regis.

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### Auditor CURLE's Case.

4 Inst. 188. Co.  
Lit. 77. a. b.  
12 Ca. 5. 2. cap. 24.

4 Inst. 202.

**I**T is enacted by the Statute of 32 H. 8. cap. 46. That there shall be two Persons to be named by the King's Highness, which shall be called the Auditors of the Lands of his Grace's Wards, and shall be called the Fourth Officer of the same Court: Which Office is in Part Ministerial, as to the auditing of Accompts, and in part Judicial; for he is sworn by Force of the said Act, That you shall not take nor receive of poor nor rich, any Gift or Reward in any Matter or Cause depending or to be discussed in the same Court, &c. ever since which Statute the Auditors of the said Court had an Office judicial, *sc.* a Voice in every Cause depending in the same Court: and in the same Statute there is a Proviso, That John Peryn which by the King's Letters Patents hath been heretofore, and now is Auditor of his Grace's Wards Lands, shall continue and be one of the two Auditors mentioned in this Act, during the Term of his natural Life. King H. 8. An. 32. of his Reign, by his Letters Patents under the Great Seal, nominated and constituted John Peryent unum Auditorum curie sue Wardorum & liberationum, habendum to him for the Term of his Life, with a Fee of forty Marks per annum. John Peryent, An. 36 H. 8. surrender'd his Estate and Patent to the King; and H. 8. by his Letters Patents under the Great Seal, in complementum tam prioris quam posterioris actus (*viz.* of 32 & 33. H. 8.) granted to J. Peryent and W. Tooke officium unius Auditorum curie sue Ward, habendum dictis J. Peryent & W. Tooke conjunctim & divisim pro termino vitarum suarum & eorum alterius diutius vivent, cum feodo 40  
*marcarum.*

32 H. 8.  
cap. 46. 33 H. 8.  
cap. 22. 12 Car. 2.  
cap. 24. Hughs  
Abr. 1388, 1389

PART XI. Auditor CURLE's Case.

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*marcarum.* Peryent died *An. 6 E. 6.* and *William Tooke* exercised and enjoyed the Office alone until *30 Eliz.* and then died. Queen *Elizabeth, An. 31.* of her Reign, by her Letters Patents *in complementum, &c. at supra,* granted to *Walter Tooke* and *William Curle officium unius Auditorum curia sue Wardorum, &c. habend' dict' Waltero & Willielmo & alteri eorum conjunctim & divisim pro termino vitarum suarum & eorum alterius diutius viventis.* Our Lord the King that now is *Anno 4.* during the Lives of *Walter Tooke* and *William Curle,* by his Letters Patents (in which is recited the Grant made of the said Office by Queen *Elizabeth* to *Walter Tooke* and *William Curle*) & *in complementum, &c. ut supra,* granted to *J. Churchil* and *J. Tooke, Officium unius Auditorum curia sue predicta, habend' eisdem J. Churchil & J. Tooke immediate post mortem predict' Walteri Tooke & Wil. Curle vel eorum alterius diutius viventis, vel a tempore quo officium illud per forisfacturam, sursum redditionem, sive quemcumque alium modum primo & proxime vacaverit, aut ad manus nostras devenire contigerit.* And afterwards *John Churchil* died, and the King reciting both the Letters Patents, the one made to *Walter Tooke* and *William Curle,* and the other to *John Churchil,* and *John Tooke in complementum, &c. ut supra, & ea intentione ut sint dua persone post mortem aliquorum predict' Walteri, Willielmi & Johannis qui sint vocat' Auditores terrarum Wardorum suorum, secundum vim & intentionem Actus predict',* granted to *Richard Percival Officium unius Auditorum curia sue predict', &c. habendum post mortem predict' Walteri Tooke, Willielmi Curle, & Johannis Tooke, vel aliquorum duorum eorum qui citius mori contigerint, vel a tempore quo, &c. ut supra:* And afterwards *Walter Tooke* died, and *William Curle,* and *John Tooke,* and *Richard Percival,* are alive. In this Case divers Questions were made and argued by Learned Council, on both Parts, at divers Days, as well in *Michaelmas* Term now last past, as this Term: And upon good Consideration and Conference between the two Chief Justices, and the Chief Baron, these Points were unanimously resolv'd,

1. That the Letters Patents made to *John Peryent* and *William Tooke de officio unius Auditorum curia sue Wardorum,* fuer' bone, For altho' the Statute Enacts, That there shall be two Persons which shall be called the Auditors of the Lands, &c. so that there shall be two Persons and called two Auditors, yet it is but *unum officium,* and they both are but *unus Officiarius,* and so the Statute it self speaks, these two Persons called Auditors, shall be called the Fourth Officer of the same Court: So that the Grant de

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*Officio unius Auditoris, or unius Auditorum*, is good enough; for (a) *mala grammatica non vitiant concessionem*, and if the Grant had been in English, viz. *The Office of one Auditor, or one of the Auditors of the Lands, &c.* it had been good: and so is the Book adjudged by the Advice of all the Justices in the like Case, in (b) 9 Ed. 4. fol. 2. a. b. where King E. 4. by his Letters Patents, Anno 4. of his Reign, granted to William Swyrenden and John Bagot, *Officium unius Clericorum de Corona in Cancellaria dicti Domini Regis*, for Term of their Lives, &c. And in Assise brought in the King's Bench, Catesby took Exception to that Grant, because it appears that *Officium unius Clericorum* is granted to two, and it is impossible that two can have the Office of one, no more than if the (c) Chief Justice of this Place, is granted to two, it is void; for the Matter itself proves, That 2 can't have it in Common, for none can be Chief Justice but one. But *si Officium Clerici de Corona* be granted to two, it is good enough; and many other Exceptions were taken by him: and the Book saith, That the Justices said, that they had talked of all these Points with the Justices of the Common Pleas, and it seemed to them, that these Matters were to no Purpose to arrest the Judgment, and we are of the same Opinion, wherefore it was awarded, That the said Swyrenden and Bagot should recover the Office, and their Damages taxed by the Assise, &c. By which Resolution of all the Justices, it appears, That when there is an Office of Clerk of the Crown in Chancery, that it is all one to grant *Officium unius Clericorum de Corona, &c.* and to grant *Officium Clerici de Corona, &c.* to two, because there is but one Office: So in this Case at the Barr there is but one Office, and two Persons to supply it, and therefore the Grant is good; and in this Case, this Word *unius* is not numerative, but to note the Unity, Particularity, and Identity of the Office.

2. It was resolved, That altho' these two Persons called Auditors. are but one Officer, yet the Words in the Grant, viz. *Co-junctim & divisim, & alterius eorum diutius viventis*, are material; for if an Office be granted to two, *Pro termino vitarum suarum*, (without more) by the Death of the one of them, the Grant will be void: For being an Office of Trust there shall be no Survivor of it. And in this Case no Survivor can be: For inasmuch as it is enacted by the Act of Parliament, by which this new Court was erected, That there shall be two Persons, &c. who have (as is aforesaid) a Judicial Voice, the K. can't constitute one only, for the Subject by the Act has Interest in it, *Et securius expediuntur*

(a) 9 Co. 48. a.  
Co. Lit. 146. b.  
6 Co. 39. b.  
10 Co. 133. a.

(b) 6 E. 4. 8. b.  
9 E. 4. 11 a.  
7 E. 4. 26. b.  
Dyer 149. pl. 81.  
2 Jones 127.

(c) 2 Rol. 152.  
18 E. 4. 7. b.  
Br. Chan. 170.  
Br. Patent 69.  
2 E. 4. 11. a.

Roll. 152.

Dyer 150. pl. 1.  
2 Rol. 86.  
5 Co. 9. a. b.

Hob. 314. Jen-  
kins Cent. 5. 292.

*expediuntur negotia commissa pluribus*: But the King may constitute one at one Time by one Patent, and another at another Time by another Patent; and altho' he may so do, yet he who is first constituted, has not any Judicial Voice till the other is constituted, for it is enacted by the Statute, That two Persons, &c. shall be one Officer; and therefore it was resolved, That these Words *Conjunctim & divisim, & alterius eorum diutius viventis*, shall serve to this Purpose, That the Survivor shall be one of the Persons, to whom another shall be added.

3. It was resolved, That this Nomination by the King ought to be under the Great Seal of England, and not by Word, nor by the Privy Seal, nor Signet, &c.

4. It was resolved, That the Grant made by the King to John Churchil and John Tooke in Reversion, after the Death of Walter Tooke and William Curle, was void for 3 Reasons.

1. Because he is, as it has been said, a Judicial Officer; for these Auditors are one of the Judges of the Court: And as none can give any Judgment of Things which will happen *in futuro*, so none can be a Judge *in futuro*; and the Rule is, *Officia Judicialia non concedantur antequam vacent*:

And great Inconvenience would thence ensue; For he who at the Time of the Grant in Reversion, may be able and sufficient to supply the Office of Judicature, and to administer Justice to the King's People, before that the Office falls, may become unable and insufficient to perform it. And it

was resolved, That neither the Office of Master of the Wards, nor of the Surveyor, nor of the Attorney of the same Court, can be granted in Reversion, because they are Judicial Offices. 2. Altho' the Office is in Part Judicial,

and in Part Ministerial, and Offices Ministerial may be granted in Reversion; yet forasmuch as two Persons shall have both these as one Office and one Officer, it is by the Act of Parliament so entire, that it can't be divided; for the King can't make two Auditors of the Ministerial Office, and two as to the Judicial, for then there would be four Persons, and the Act restrains it to two; neither can the King make one Person to have the Judicial Voice, and the other the Ministerial Office; for then there would be two Officers, and two Offices, and the Act makes but one Officer; and then the one would have a distinct Office and Voice, whereas the Act conjoins them in two Persons. 3. These Words in the said Grant in Reversion, *Vcl a tempore quo, &c. officium illud per forisfactur, sursum redditorem, seu quemcumque alium modum, &c. vacari contigerit*, cannot (if the Ministerial Office might be only granted in Reversion) take Effect by the Death of

4 Co. 46. a.

2 Rol. 86.

March. Rep. 41.  
Cro. Car. 279.  
Dyer 80. pl. 38.  
8 Co. 55. b.  
Dyer 259. pl. 18.  
2 Rol. 154.  
2 Jones 126. Co.  
Lit. fol. 3. b.  
Hob. 150, 151.  
4 Inst. 202.

2 Rol. 154.

2 Rol. 154.  
2 Jones 126. Cro.  
Car. 279. Cro.  
Elix. 336. Dy.  
80. pl. 38.  
10 Co. 61. b.  
Hardr. 122.

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*Walter Tooke*, to make another to exercise the Office with the Survivor, because granted to two; and then if *Walter Tooke* had died during their two Lives, there wou'd be 3 Officers, where the Act restrains it to two only; and altho' one dies, that doth not make the Grant, (a) which is void, at the Time of the making of it, good. Also the Words are, *Quando Officium illud, &c. vacare contigerit*; and that in this Case shall be intended the whole Office; and that is not void till after the Death of both the Patentees in Possession.

(a) 10 Co. 62. a.  
4 Co. 2. b. 90. a.

5. When *Walter Tooke* died, then *William Curle* remain'd one of the Persons, &c. and the King might add another to him; and until another is added, his Voice is suspended, as in the Case of (b) 14 H. 4. 35. a. If a Writ issue to the Sheriffs of *London*, and one of them dies, the other can't execute the Writ, because his Power is suspended until he has a Companion chosen to him.

(b) Br. Return.  
de Brief 42. Br.  
Office & Officer  
11. Fitz. Return  
de Vicount 56.  
Hob. 70.

6. It was resolved, That the Grant made to *Richard Percival*, is void: First, because it is a Judicial Office, and (as is aforesaid) can't be granted in Reversion: Secondly, Admitting it might be granted in Reversion, it recites the Grant made to *John Tooke* and *John Churchil*, as a good Grant, whereas it was void; and the Grant of *Percival* is to begin after that, and so the King is deceived in his Grant.

Co. Lit. f. 2. b.  
2 Rol. 188.  
5 Co. 94. a.

Ylverton 48.

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# Trin. 10 Jacobi Regis.

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## Sir JOHN HEYDON's Case.

SIR John Heydon Knight, brought an Action of Trespass of Battery, and wounding (which in Truth was in a cruel and barbarous Manner) at *Fakenham* in *Norfolk*, against *Froxmere Cocket*, *Thomas Cocket*, and *Jeffrey Cobbe*; *Froxmere Cocket* appear'd, against whom the Plaintiff declared with *Simul cum*, &c. And *Froxmere Cocket* pleaded not guilty, and thereupon *Venire facias* issued, &c. And afterwards *T. Cocket* appeared, against whom the Plaintiff also declared with *Simul cum*, &c. who pleaded also not guilty, upon which, another *Venire facias* issued; and both these Issues came to Tryal at the Assizes at *Thetford* in *Norfolk*, *An. 8 Jac. Regis*, before the Chief Justice of the *Common Pleas*, and in Truth the Issue against *Froxmere* was first tryed, and the Jury assessed Two hundred Pound Damages; and at the same Assizes the Issue against *Thomas Cocket* was tryed, and *de bene esse* Damages were assessed to Fifty Pound; and the Cause which moved the Jury to extenuate the Damages against the others, was, That altho' they were Parties, and of one Quarrel, yet *Froxmere Cocket* was the most malicious and cruel, and his Hand gave the said barbarous and grievous Wounds: *Jeffrey Cobbe* appeared, and confessed the Action, and a Writ of Enquiry of Damages awarded upon the Roll, but none issued. And a great Question was moved and depended for divers Terms, how, and against whom, and for what Damages, Judgment should be entred. And at the last, upon Consideration

1 Brownl. 233.  
 1 Rol. Rep. 30.  
 Cr. Jac. 348.  
 Jenk. Cent. 269.  
 Hughs Abr. 557.  
 1405. 2001.



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deration had of the Precedents, and of our Books, it was resolved *per totam Curiam*, as follows.

The 1st Point resolved.

- (a) Jenk. Cent. 269. 10 Co. 117. a. Postea fol. 7. a.
- Hob. 66. 1 Br. 233. 1 Bulfr. 157. Cro. Jac. 118. 349. 384. 385. Cro. Car. 54. 243. 1 Rol. Rep. 30. 31. Cro. El. 860.
- (b) 4 Co. 42. b. 3 Inst. 138. Plowd. 98. a. 34 H. 8. Br. Coron. 171. 1 Rol. Rep. 31.
- (c) 1 Brownl. 233. 10 Co. 117. a. Cro. Car. 55. Jenk. Cent. 269. 1 Rol. Rep. 30.
- (d) Cr. El. 30. Hob. 164. 199. Styl. 15. 1 Leon. 41. 3 Leon 77. Post. 45. 2. Hob. 279. 3 Co. 1. b. 36 H. 6. 28. 2.
- (e) Br. Confession 41.

1. When in Trespafs against divers Defendants, they plead not guilty, or several Pleas, and the Jury find for the Plaintiff in all, (a) the Jurors can't assess several Damages against the Defendants, because all is one Trespafs, and made joint by the Plaintiff, by his Writ and Declaration; and altho' one of them is more Malicious, and *de facto* doth more and greater Wrong than the others, yet all coming to do an unlawful Act, and of one Party, the Act of one is the Act of all of the same Party being present. And (b) theref. in such Case, if the Hand of one only gives a mortal Wound, whereupon Death ensues, it is Murder in all who are present, and of the same Party, altho' the others did not intend to give a Wound so mortal, as appears in *Mackallie's Case*, 9 Part of my Reports, fol. 67. b. But (c) in Trespafs against two, If the Jury find one guilty at one Time, and the other at another Time, there several Damages may be taxed, (d) but if the Plaintiff himself confesses, that they committed the Trespafs severally, there the Writ shall abate; and so there is a Difference between finding by Verdict, and confession of the Party. *Vide* 36 H. 6. 27. b. in *Maintenance*, 2 H. 7. 16. b. (e) Also there is a Difference betwixt an exprefs Confession, and not Gainfaying, 8 H. 6. 13. a. 10 E. 4. 8. b. 11 H. 7. 6. a. by *Mordant*, 8 H. 5. 5. 8 E. 3. 8. b. 17 E. 3. 43. a. 21 E. 3. 13. a. 18 E. 3. 49.

The 2d point resolved.

- (f) 3 Leon. 122. 39 H. 6. 1. a. Cro. Jac. 349. F. N. B. 107. E. 1 Brownl. 233. 10 Co. 119. a. 26 H. 6. Enquest 16. 1 Rol. Rep. 31.

2. It was resolved, That (f) in Trespafs against two, where one comes and appears, &c. against whom the Plaintiff declares *Simul cum*, &c. who pleads and is found guilty by the Enquest to damages, and afterwards the other comes and pleads, and is found guilty; the Defendant who pleaded last shall be charged with the Damages taxed by the former Enquest; for the Trespafs which the Plaintiff has made joint by his Writ and Declaration, and done at one Time, can't be severed by the Jury, if the Jury find the Trespafs to be done by all at one and the same Time, as the Plaintiff has supposed. Against which it was objected, That it might be mischievous to the Defendant who last pleads; for excessive Damages, by Consent between the Plaintiff and the first Defendant, may be found, with which the second Defendant shall be charged; and he shall have no remedy to relieve himself by Attaint, inasmuch as he is a meer Stranger to the Issue, upon the Trial whereof the Damages were assessed. But it was resolved, (g) That in such Case he should have Attaint; for altho' he is a Stranger to the Issue, yet because by the Law he is privy in Charge, he shall have Attaint; and

- (g) 10 Co. 119. a. Cro. Jac. 349. F. N. B. 107. E. 39 H. 6. 1. a. 46 E. 3. 21. b. 48 E. 3. 14. b.

35 H. 6. 21. b. Br. attaint. 44. 1 Rol. Rep. 31. Hob. 66.

and therewith agree 44 E. 3. 7. b. adjudged in the Point; <sup>Cro. Car. 59.</sup>  
 and F. N. B. 107 E. and in 44 E. 3. 6. b. in Trespafs of <sup>10 Co. 119. 2.</sup>  
 Battery there is a Maxim taken, That in every Case where <sup>2 Sider. 93. Br.</sup>  
 the Enquest is taken by the Issue of the Parties, by the same <sup>Attaint 17.</sup>  
 Enquest shall the Damages be taxed for all. *Vide Pasche,* <sup>1 Rol. Rep. 30.</sup>  
 9 H. 6. rot. 345. in *Communi Banco, Exoneratio Juratorum*  
*de damnis assidendis in transgressione super veredicto suo, eo*  
*quod prius assessa fuerunt per aliam Jurat' versus alios in le*  
*simul cum:* But in *Mich.* 39 H. 6. 1. a. in an Action of <sup>1 Rol. Rep. 30.</sup>  
 Trespafs against many (who had pleaded in Bar the last  
 Term) and one of them made Default, which was recorded,  
 there it is resolved by the whole Court, That for saving  
 of a Discontinuance, a Writ of Enquiry of Damages shou'd  
 be awarded; but none shou'd issue, because he shou'd be  
 contributory to the Damages taxed by the Enquest on the  
 Issue of the Parties, if they shou'd find for the Plaintiff;  
 and if they shou'd find against the Plaintiff, then the Writ  
 of Enquiry of Damages shou'd issue forth. And the Reason  
 that no Writ shou'd issue forth at first to enquire of the  
 Damages, until, &c. is, because if a Writ shou'd issue, and  
 Damages be found, it is but an Enquest of Office, and not  
 on the Issue of the Parties; and yet the Enquiry (if it  
 shou'd be lawful) ought to serve for all the Damages; for  
 the Enquiry of them shall not be twice, and the others  
 who have pleaded to the Enquest, if the Issue be found a-  
 gainst them, wou'd be chargeable with those Damages which  
 are found by Enquest of Office; and if they are excessive,  
 they shou'd have no Remedy, and yet no Default in them;  
 for they can't have *Attaint*, because it is but an Enquest  
 of Office: But in Case when in Trespafs against two, they <sup>10 Co. 119. 2.</sup>  
 plead not guilty severally, and several *Venire facias* are <sup>19 H. 6. 8. a.</sup>  
 awarded; the Enquest which first passed, shall assess Dama- <sup>2 Rol. 722.</sup>  
 ges for all, and the second Enquest shall not assess Dama- <sup>1 Rol. 280.</sup>  
 ges; but he shall be contributory to the Damages assessed <sup>39 H. 6. 1. 2.</sup>  
 by the first, notwithstanding he is not Parry to it; and yet <sup>1 Rol. Rep. 30.</sup>  
 if the Damages are excessive, he shall have *Attaint*, and <sup>Br. Attaint 44.</sup>  
 so no Damage or Mischief will accrue to him in such Case. <sup>Cro. Jac.</sup>  
*Vide* 21 E. 3. 57. a. And there in the said Book of 39 H. 6. <sup>349. 10 Co.</sup>  
 1. a. *Winslade* the Prothonotary saith, It had been a <sup>119. a. Hob. 66.</sup>  
 common Course here, that so soon as one had made De- <sup>F. N. B. 107. Br.</sup>  
 fault, to award a Writ of Enquiry of Damages, against him: <sup>39 H. 6. 1. a.</sup>  
 To which *Priscot C. J.* answer'd, it is not a good Use: And <sup>46 E. 3. 21. b.</sup>  
 according to the Saying of *Winslade* in 19 H. 6. 8. a. b. a <sup>18 E. 3. 14. b.</sup>  
 Writ of Enquiry of Damages was awarded in such Case, but <sup>35 H. 6. 21. b.</sup>  
 against Law, as before appears. And further, in Arrest of <sup>1 Rol. Rep.</sup>  
 Judgment it was moved and alledg'd, That there was a <sup>30, 31. Br. De-</sup>  
 Discontinuance against (f) *J. Coble*, and the Discontinuance <sup>fault 38.</sup>  
 is

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\* 32 H. 8. cap. 30. is not aided by the Statute of \* 32 H. 8. nor any other Statute; for the Judgment is given upon Confession, and not upon Verdict. Also *Jeffery Cobbe* is not Party to the Issue or the Enquest which assessed the Damages. (a) *Vide Mich. 1 & 2 Ph. & Mar.* Issue joined betwixt the Demandant and the Vouchee, is out of the Statute of 32 H. 8. c. 30. and yet he was Party to the Issue. But it was resolved, That the said Act extends to the Case at Bar, because *Jeffery Cobbe* was Party to the Original, and one of the Defendants in the Action; for the Words of the Statute of 32 H. 8. are, *If any Issue be tryed by Oath of twelve or more indifferent Men for the Plaintiff or Demandant, or for the Party of the Tenant or Defendant, &c.* So that the Vouchee is out of these Words; but *Jeffery Cobbe* in this Case is one of the Defendants, and so within the Words of the Act; and a Verdict in this Case is given, (b) to which he is so privy, that he may have *Attaint*. (c) Also it was affirmed by all the Prothonotaries; and so resolved, That after the Writ of Enquiry of Damages awarded, there is no Discontinuance taken after in the *Common Pleas*, betwixt the Plaintiff, and the Defendant, against whom the Writ of Enquiry, &c. is awarded; but it was said the Course is otherwise in the *King's Bench*: And so it was adjudged between (d) *Tooly* Plaintiff, and *Prieston* Defendant; *Mich. 29 and 30 Eliz.* in the *Common Pleas*, and afterwards affirmed in a Writ of Error in the Court of King's Bench: But there are divers Precedents in this Court, that in such Case Continuances have been taken, which is a sure Way, *Et (e) abundans cautela non nocet*. And afterwards in the Case at Bar, Judgment was given for Sir *John Heydon* the Plaintiff, for the Two hundred Pounds assessed, &c. against all the Defendants: (f) Upon which Judgment, a Writ of Error was brought, and all the said Points were moved and debated again at the Bar, and at the Bench in the King's Bench, and upon good Consideration the Judgment before given, was unanimously affirmed by the whole Court. Note Reader, in *Mich. 28 & 29 Eliz.* in the King's Bench, (g) *Richard Gomersal* brought an Action of Accompt against *J. Gomersal* of divers Receipts and Parcels; to all which, except one, the Def. pleaded to Issues, (and to one Parcel pleaded nothing) and the Issues were found for the Pl. And it was moved in Arrest of Judgment, That the Plea was discontinued, because he did not answer to Parcel, as it is agreed in *7 E. 4. 24. b.* and *7 H. 6. 5. a. &c.* And it was objected, That that Discontinuance was not remedied by the Statute of 32 H. 8. Because no Answer is given to one Parcel, and of Parcel the Plaintiff could not have Judgment according to his Declaration; for of the Parcel to which no Answer was made, no Judgment could be given.

3. But

(a) 1 Anderf. 26.  
27. 5 Co. 36. b.  
8 Co. 162. b.  
O. Bendl. 12.  
N. Bendl. 37.  
Bendl. in Kelw.  
207. b. Bendl. in  
Ash. pl. 5. Hob.  
281.

(b) 10 Co. 119. a.  
Cro. Jac. 349.  
Hob. 66. 39 H. 6.  
1. a. 46 E. 3.  
21. b. 48 E. 3.  
14. b. 35 H. 6.  
21. b. F. N. Br.  
f. 107. E.

(c) Jenk. Cent.  
269. 1 Rol. Rep.  
31. 408. Cro. El.  
75. 144. 3 Bulst.  
208. 209. 1 Sid.  
16. 1 Rol. 485.  
Yelv. 97. Noy  
120. 17 E. 3. 58. b.  
pl. 50. Dyer 196.  
pl. 39.

(d) 1 Leon 297.  
Cro. El. 74. 75.  
1 Rol. Rep. 31.  
(e) Raymond  
273.

(f) Cro. Jac.  
348. 1 Rol. Rep.  
30.

(g) 2 Leon.  
194. 118. March  
21. Godb. 55.

3. But it was resolved, and so affirmed in the King's Bench, That the Statute of 32 H. 8. c. 30. did extend to it; for it is thereby Enacted, That after Verdict found, Judgment shall be given, *any Discontinuance, &c. notwithstanding*: And accordingly Judgment was given of so much as was found by the Verdict, *Vide Hirlakinden's Case in the Fourth Part of my Reports, fol. 62. a.*

4. In the Case at Bar; for as much as in Judgment of Law, the several Juries, gave a Verdict all at one and the same Time, the Plaintiff may have Election to have Judgment *De melioribus Damnis* by any of the Enquests, and it shall bind all; but *fiat nisi unica executio*. *Vide Mich. 10 & 11 Eliz. Rot. 758. Hill 17 Eliz. Rot. 1042. lib. intrat. 589. sect. 12.* But in the Case at Bar, in Truth the greater Damages were first assessed. *Vide 19 H. 6. 8. a. by Hody.*

5. It was resolved, That where in Trespas, the Defts. plead several Pleas all tryable by one and the same Jury, and both the Issues are found for the Plaintiff, the Jury can't sever the Damages; and if they do, the whole Verdict is vicious, as appears, *Hill. 43 Eliz. Rot. 1694, in Communi Banco inter Austen Plaintiff, and Willard and two others Defendants in Battery; one pleaded not guilty, and the others pleaded of his own Assault; all triable by one Inquest, and both the Issues found for the Plaintiff, and several Damages given against them, & male per totam Curiam.*

And in this Case a Record was cited, by which it appears, That *Edward Miles* brought Trespas (which began in the King's Bench, 7 Jac. Regis, Rot. 413) against *Richard Prat, Thomas Richardson* and *Nicholas Babbs*, for breaking and entering his Close and House at *Nedeham Market*; and for taking and carrying away a Cupboard of the Value of Forty Shillings, with divers Deeds, Evidences, and Miniments in the said Cupboard contain'd; a Copper of the Value of forty Shillings, a Lead of the Value of Ten Pounds, and Forty Yards of Waincot, of the Value of 5 l. to the Damages of the said *Edward* of Two hundred Pounds, *Nicholas Babbs* pleaded not guilty generally, *Tho. Richardson* to all the Trespas, (except the breaking and entering the Close and House,) pleaded not guilty: *Richard Prat* to all the Trespas (except the breaking and entering the Close and House, and taking and carrying away the said Cupboard and Lead) pleaded not guilty. As to the breaking the Close and House, *Richardson* said, and as to the breaking the Close and House, and taking and carrying away the

The 3d Point resolved.  
Hardr. 331. Hob.  
187. 1 Roll. Rep.  
31. Cro. Jac.  
353.

The 4th Point resolved.  
Jenk. Cent. 269.  
Dyer 131. b.  
1 Roll. Rep. 395.  
Cro. Jac. 118.  
349. Cro. Car.  
545. 55. 193. 243.  
Hob. 66. Yelv.  
68.

The 5th Point resolved.  
Jenk. Cent. 269.  
1 Brownl. 233.  
10 Co. 119. a.  
1 Bulltr. 157.  
Cro. El. 860.  
Cro. Jac. 118.  
349. 384.  
385. Cro.  
Car. 54. 243.  
1 Roll. Rep. 30.  
Anrea fol. 5. b.  
Hob. 66.

Cro. Jac. 303.  
1 Bulltr. 50.  
Hughes Abr. 1465.

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the said Cupboard and Lead, *Prat* said *actio non*, and pleaded in Bar a Statute Staple of One hundred and fifty Pound, acknowledged by *Miles* to *Thomas Prat*, and that the said House and Close, and the said Copper and Lead *inter alia* were extended by Force of the said Statute, and by *Liberate* delivered to the said *Thomas Prat*, who died possessed and intestate; and the Administration of the Goods and Chattels of the said *Thomas Prat* was committed to the said *Richard Prat*; wherefore, the said *Richard Prat* in his own Right, and *Richardson* as his Servant entred into the said Close and House, and took the said Copper and Lead, as the Goods and Chattels of the said *Richard Prat*, by Reason of the said Administration: *Miles* replied, That there was no such Record of the said Extent and *Liberate* remaining in the Chancery. *Prat* and *Richardson* rejoined, That there was such a Record of the Extent and *Liberate* remaining in Chancery. All these Pleas were entred in *Mich. Anno 7 Jac. Regis*, and Day was then given to have the Record apud *Westm' die Mercurii proxime post' Crastin' Purification' beata Maria suo periculo*; and also a *Venire facias* was then awarded for tryal of the said Issues returnable *ad presat' Diem*. At which Day *Prat* and *Richardson* failed of the Record, whereupon it was awarded that *Miles* should recover Damages, and upon that it was then awarded *Venire facias iam ad triand' exitus predict' quam ad inquirend' de damnis*, returnable *Die Mercurii proxime post' quinden' Pascha*, & then it is entred in such Manner, *Postea continuat' inde Processu inter partes prad' de predict' placito per Jurat' post' inde inter eas in respect' coram domino Rege apud Westm' usque diem Martis prox. post' Octab. sancti Mich. tunc prox. sequen', Nisi Justic' domini Regis ad assessas in Com' predicto capiend' assign' prius die Martis 24 die Julii apud Bury St. Edmundi in Com' predicto per formam Statuti, &c. Venerint pro defect' Jurat', &c.* At which Assises all the Issues were tryed for *Miles*, and several Damages assessed as well for the Trespas put in Issue tryable *per patriam*, as for the Trespas tryed by the Record; the which Verdict afterwards at the Day in Bank *per totam Curiam* was quashed, because the Jury had assessed the said Damages severally. *Et quia Juratores predict' male se gesserunt in verdicto suo reddendo, Venire facias de novo* was awarded; and upon the second Tryal had, all the Issues were found for the Plaintiff, and entire Damages assessed for the whole Trespas and Costs of Suit, in the whole amounting to One hundred and fifteen Pound, twelve Pence: And it was moved in Arrest of Judgm. that there was not any Continuance *a termino Pascha, anno 8 Jac. Regis, usque term' Trinit'* then following; *Nec ab eodem termino usque diem Marti' proxime post' Octabas Sancti Michaelis tunc proxime sequentis.*

And

1 Brownl. 233.  
2 Bulstr. 50.

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And altho' there was a full Discontinuance in that Case, and altho' the Issue of *Nul tiel* Record, is not within the Statute of 32 *H.* 8. which speaks of the Verdict of twelve or more indifferent Men: Yet for the Reasons before rehearsed, Judgment was given for the Plaintiff, and afterwards a Writ of Error was brought upon that Judgment, and the only Error assigned, was the said Discontinuance; but for other Errors not assigned, as it was openly spoken in the Cro. Jac. 304 Argument in the Case at Bar, the Judgment given in the said Case of *Miles*, was reversed.

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Mich.

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# Mich. 10 Jacobi Regis.

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## PRIDDLE and NAPPER's Case.

2 Brownl. 25.  
Hardres 69.  
1 Jones 189.

**I**N an Attachment upon a Prohibition in the Common Pleas by *John Priddle, qui tam, &c.* against *Thomas Napper* Gentleman, Proprietor of the Rectory of *Tintenbul* in the County of *Somerset*, the Pl. declares, That whereas one *Robert Shirburne alias Whitlocke*, late Prior of the Priory of *St. Peter and Paul the Apostles*, of *Mountacute* in the County of *Somerset, ordinis Clunacensis*, was seised of 22 Acres of Land, called, *Perins-hill alias Guilberts-hill* in *Tintenbul* in the said County, and of the Rectory of *Tintenbul*, *Eidem Prioratui pertin' & spectan', ac parcel' eisdem Priorat' existen'* in his Demesn as of Fee in the Right of the Priory, and that the said Prior and all his Predecessors, Priors of the said Priory before the Dissolution of the said Priory, and at the Time of the said Dissolution of the said Priory, were Rectors of *Tintenbul* aforesaid, and had, and held the Rectory aforesaid *Simul & semel* with the said 22 Acres of Land, *In manibus suis propriis in Jure Prioratus sui predicti, ratione cujus idem nuper Prior & omnes predicti alii Priores ejusdem nuper Prioratus per totum tempus predictum ante predictum tempus dissolutionis Prioratus illius, usque ad tempus dissolutionis, &c. Habuerunt & tenuerunt, ac idem nuper Prior tempore dissolutionis, &c. Habuit & tenuit predictas viginti & duas acras terræ exonerat', acquietat', & immunes de omnibus & omnim' decimis, &c.* and that 20 Martii an. 30. the said Prior and Covent by their Deed enrolled in Chancery,

gave

gave, granted, and surrender'd the said Priory, the said Rectory, Land, and all the Possessions thereof to King H. 8. his Heirs and Successors; and that by Force thereof, and of the Statute of 31 H. 8. of Dissolutions, King H. 8. was seised of the said Rectory, and of the said Land in his Demesne as of Fee, as in the Right of his Crown; and shewed the Clause of the Statute of 31 H. 8. of Discharge of Payment of Tithes; by Force whereof, King H. 8. was seised of the said 22 Acres of Land, &c. discharged of Payment of Tithes, and conveyed the Inheritance of the said 22 Acres to Sir Thomas Freke and others; who anno 38 Eliz. demised the same to the said John Priddle for 99 Years, if three of his Sons or any of them should so long live; and averr'd their Lives, and that the Defendant Proprietarius Rectorie prædictæ &c. before the Bishop of Bath and Wells sued the Plaintiff for Tithes of Corn growing in the 22 Acres of Land, &c.

Hardres 70.

*Et præd' Thomas Napper pro Consultatione habenda*, alledged a Grant by Letters Patents of Queen Elizabeth anno regni sui secundo, of the said Rectory to Rive and Evelyn, and to their Heirs; and by mean Conveyance, conveyed the said Rectory to the said Thomas Napper in Fee, and that he libelled for the said Tithes, as he lawfully might; *Absque hoc quod prædictus Prior & omnes prædecessores sui Priores præd' nuper Prioratus a tempore cujus contr' memoria hominum non exiit ante tempus dissolutionis, &c. nec non usque ad tempus dissolutionis, &c. Habuerunt & tenuerunt prædict' viginti & duas acras terra exonerat', ac quietat' & immunes de omnibus & omnimodis decimis quibuscumque super prædict' viginti & duas acras terra quovismodo provenient', &c. prout, &c. & hoc, &c. unde petit Judicium, & breve dicti domini Regis de consultatione sibi in hac parte concedi, &c.* Upon which, Issue was joined, and the Jury before the Justices of Nisi prius gave a special Verdict, That the Prior and his Predecessors, a tempore cujus, &c. untill the Time of the Dissolution, were seised of the said 22 Acres of Land in their Demesne, as of Fee as in the Right of the said Priory; and that one Thomas late Prior of the said Priory was seised of the Advowson of the said Church of Tintenhul in Fee in the Right of his Priory: And he being so seised H. 8. the 8 Day of May, in the 20 Year of his Reign, by his Letters Patents (the Exemplification of the Enrolment of which under the Great Seal they set forth) *De gratia sua speciali ac certa scientia & mero motu suis licentiam dedit præfati Tho' tunc Priori nuper Prioratus, & ejusd' loci Conventui & Successoribus suis, quod ipsi & Successores sui dictam Ecclesiam Parochialem de Tinten' præd', impropriare, consolidare,*

Hugh's Abr<sup>7</sup>  
100.



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*incorporare, annectere, & unire, & eam sic appropriat, consolidat incorporat, & unitam, in proprios suos usus tenere possint;* with Proviso to endow a Vicarage, and that a competent annual Sum should be distributed to the Poor, with usual non obstante: And that John Bishop of Bath and Wells, Ordinary of the said Place, 4 Sept. 1529, by Indentures tripartite, viz. One Part sealed with the Seal of the said Bishop, the other Part sealed with the Seal of the Prior and Covent of Bath, (which confirmed the said Indenture) and the third Part sealed with the Seal of the Dean and Chapter of Wells (which also confirmed the said Indenture) *Ecclesiam parochialem de Tintenhul dicta nostra Diocesis & sui Patronatus (ut asserunt) dictis Priori & Conventui & Successoribus suis & domui sive Prioratui suo predicti cum consensu pariter & assensu metuendissimi in Christo Principis & Domini Henrici Octavi Dei gratia, &c. Autoritate nostra ordinaria annectimus, appropriamus & unimus per presentes, ita quod cedente vel decedente Rectore ejusdem Ecclesie Parochialis qui nunc est, seu aliter ipsa Ecclesia quovismodo vacari contigerit, liceat ipsis Priori Conventui suisque Successoribus per se vel per alium seu alios ipsorum nomine possessionem dicta Ecclesie Parochialis autoritate propria intrare, &c. & in proprios usus convertere & imperpetuum retinere:* With Endowment of a Vicarage, and Provision for an annual Sum to the Poor: And afterwards the then Parson of the said Rectory died, after whose Death the said Thomas Prior of the said Priory into the said Rectory enter'd, and was as well of the said Rectory, as of the said 22 Acres of Land seised in his Demesne, as of Fee in Right of the said Priory: and afterwards the said Prior Thomas died, and Prior Robert succeeded him: and that the said Prior Thomas, and Prior Robert, ever after the said Appropriation held the said Rectory with the said 22 Acres of Land in their own Hands *Simul & semel*, in the Right of his Priory, and found the Surrender of the said Priory; and that the said K. H. 8. 24 die Julii anno 36 H. 8. by Indenture under the Seal of the Court of Augmentation, demised the said Rectory to William Petre Doctor of Law for 21 Years, who assigned it over to Edward Napper, and that no Tithes were paid until the second Year of Queen Mary, and then the said Edward Napper had a Sentence in the Court of Audience against one Thomas Guil, then Farmer of the said 22 Acres; and that after the said Sentence, until 8 Year of Queen Elizabeth, Tithes were paid of the said 22 Acres, and conveyed the said Rectory from K. H. 8. by mean Descents to Queen Elizabeth, and by the said Letters Patents, and by diverse mean Conveyances to Napper:

Hugh's Abr.  
1009.

Et

*Et utrum super tota materia, &c. Præd' Robertus nuper Prior & omnes prædeceffores sui Priores ejusdem a tempore cujus contrar', &c. ante tempus dissolutionis, &c. necnon usque ad tempus dissolutionis, &c. habuerunt & tenuerunt prædict' 22 acras terr' exonerat', acquietat', & immunes de omnibus & omnimodis decimis quibuscunque &c. Juratores penitus ignorant, & petunt advisamentum Curie in præmissis, & fi, &c.* And this Case was oftentimes argued at the Bar by the Serjeants; and now this Term it was argued at the Bench. And in this Case these Points were resolved.

1. That the Information upon which the Prohibition was granted, was sufficient in Matter: For altho' every Parish Church is supposed to be Presentative, and the Incumbent ought to come in by Admission, Institution, and Induction; yet the Plaintiff in this Case may prescribe, That the Prior and his Predecessors *a tempore cujus, &c.* have been Rectors of the said Church; for that amounts that it was impropriate, &c. and the Beginning of a Thing done before Time of Memory, can't be known, *viz.* Whether it came by Union or Impropriation, and therewith agrees (a) 21 E. 4. 65. a. Where in Trespass for certain Cart-loads of Oats taken at *Bodman* against the Prior of *Bodman*, the Def. said, That the Corn was growing in a certain Place in *B.* in the Parish of *B.* of which Parish he is *persona impersonata, i.* Incumbent; and he was driven to shew how he came to the same Parsonage, wherefore he alledged Title by Prescription, and how the Corn was severed from the nine Parts, and that he took it, and that was allowed for a good Title to the Rectory: Wherefore as to this Point, the Information was resolved to be good; but the Addition of the Impropriation, &c. had made it without Question. It was also held, That the Conclusion of the Prescription of the Unity, *viz. Ratione cujus*, the Prior held the said Land discharged of Tithes, was not formal; for in Truth, by the (b) 2 Co. 47. b. Postea 14. b. Hob. 298. 44. 309. 32 H. 8. Br. Difines 17. B. N. C. 178. Ballion 50. Mo. 219. 532. 533. 534. 2 Bullfr. 184. Noy 35. 142. 1 Leon. 248. 332. 334. 335. Cro. Jac. 452. 453. 608. 1 Jones 3. 4 Leon. 47. Savil 62. Dav. 6. a. Dyer 43. pl. 21. (c) Hardr. 70. Hob. 298. 2 Co. 48. a. 1 Leon. 333. Cro. Eliz. 20. 584. 585. Moor 530. 534. Doctrin. placit. position; 351

2. That the Defendant's Plea *Pro consultatione habenda* (for he is in a Manner an Actor) was insufficient, because he has traversed a Thing not traversable, for the Prescription of the Unity ought to have been traversed; and not the Conclusion, *viz. (c) Ratione cujus*, and that for divers Reasons; one as in Logick, The Conclusion of a Syllogism can't be denied, but the Major or Minor Pro-

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(a) Doctrin.  
Placit. 351, 352,  
370.

(b) Br. Ancient  
Demefne 6.  
Fitz. Ancient  
Demefne 9.  
(c) Hob. 298.

(d) 12 Co. 66.  
13 Co. 12. Co.  
Lit. 125. a.  
8 Co. 130. a.  
(e) 4 Co. 42. a. b.  
2 Bulltr. 204,  
251, 305, 314.  
1 Syd. 127. 9 Co.  
13. a. 25. a.  
8 Co. 155. a.  
Co. Lit. 125. a.  
155. b. 226. a.  
Plowd. 114. b.  
1 Roll. Rep. 132.  
(f) Moor 105,  
209. 4 Co. 42. b.  
Cro. El. 41, 48,  
482. Hob. 53.  
Plowd. 112. b.  
114. b. Cro. Car.  
75, 76, 212. Cro.  
Eliz. 481.  
12 Co. 15. Hutt.  
151. Dyer 361.  
pl. 15. Hardr.  
347. 2 Roll.  
701, 702.  
(g) Doctrin.  
placit. 192.  
2 Co. 47. a. b.

(h) Co. Lit.  
122. a. Cro.  
Car. 20, 94. Dy.  
174. pl. 21, 22.  
Doctrin. placit.  
177, 188, 190,  
192.  
Br. Issues joines,  
36.

position; so it holds in Law, which is the perfection of Reason: (a) And therefore in a *Præcipe*, if one pleads, That the Manor of *Dale* in ancient Demefn, and the Land in demand is Parcel of the Manor, and so ancient Demefn; the Demandant can't say, That the Land in demand is not ancient Demefn, for that is the Conclusion upon the two precedent Propositions. The 1. That the Manor is ancient Demefn, the 2. That the Land in demand is Parcel of the Manor, for *Sequitur conclusio super præmissis*, and therefore it can't be denied; and therewith agree (b) 41 E. 3. 22. a. 48 E. 3. 11. a. b. and many other Books: So in the Case at Bar, the *Major*, (c) where there is a perpetual Unity of a Rectory and Land therein, until the Dissolution, &c. there the Land is discharged Tythes; but here has been a perpetual Unity of the Rectory of *T.* and the 22 Acres, *Ergo*, the 22 Acres are discharged of Tythes, this Conclusion can't be deny'd: 2. It is not only a Conclusion, but a Conclusion of Law, and Matter in Law shall not be put in Issue to be tried by the Country, for the Rule is, (d) *Quod quisque norit, in hoc se exerceat*, and therefore, (e) *Sicut ad questionem facti non respondent Judices, ita ad questionem Juris non respondent Juratores*: (f) And if the Jury take upon them to know the Law, and find the special Matter, and mistake the Law, the Judges of the Law shall give Judgment on the special Matter according to Law, without having regard to the Conclusion of the Jury, who ought not to take upon them the Judgment of the Law, and therewith agree *Pl. Com. Amy Townsend's Case, f. 112. b. 114. b. Vide 5 H. 7. Carcw's Case, 12, 13, 14, 15. 9 H. 6. 38. a. 13 H. 7. 22. &c.* and the Lord *Barkley's Case, Pl. Com. 230. b.* One pleads a Gift to King *H. 7.* and to the Heirs Males of his Body, *virtute cujus* he was seised in Fee; the other confessed the Gift, *virtute cujus* he was seised in Tail, and no Traverse to the *virtute cujus*, for the Conclusion is the Conclusion of the Law. 3. The (g) Issue is not well joined, 1. Because the Matter of the Discharge is by Reason of the Unity, which is by Force of the Statute of 31 H. 8. and not by the Common Law, and the Issue is joined upon a Discharge by the Common Law, *viz.* Prescription in the Prior and his Predecessors to hold the said 22 Acres of Land discharged of Tythes, which is a Discharge by the Common Law: 2. (h) Every Issue ought to consist upon an Affirmative and a Negative, and here is not any Affirmative, for that which comes after the *ratione cujus* is not *Affirmative*, or *Positive* alledg'd, but as a Consequence upon the precedent Matter, *Vide 8 H. 6. 6. a. 36 H. 6. 15. a. b. 9 E. 4. 36. 6 H. 7. 5. b.* and therewith agrees the Resolution of the Judges in the Bishop of *Canterbury's Case*, in the Second Part of my *Reports, fol. 48.* so that here

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here is not any Issue joined, of any Matter alledged in Fact in the Information.

4. Upon the Verdict divers Points were moved at the Bar, 1. If the said Impropriation (as it was found) was good, or not. 2. If it was not good by the Common Law, if the Statute of 35 *Eliz. Regina cap. 3.* has supplied the Imperfection of it, or not. 3. When the Jury find Matter sufficient to bar the Parson of the Tythes, which was not Parcel of their Charge, nor within the Issue, if without regard to that Matter a Consultation shall be granted. 4. If by the said Impropriation and Unity, so short a Time before the Dissolution, which could not be above 9 or 10 Years, it should be such a Discharge of Tythes as is intended within the Statute of 31 *H. 8.*

As to the first it was objected, That the said Impropriation was void for two Reasons: 1. Because the King has made a Licence of Impropriation of the Church of *T. per verba de presenti tempore*, where it appears, that at the Time of the Licence made there was an Incumbent then of the same Church; so that no Appropriation could be made *in presenti*, but *in futuro*, by special Words, to take Effect after the Death of the present Incumbent, for as no Appropriation can be made of a Church which is full of an Incumbent, but in a special Manner to take Effect after the Death of the Incumbent, so the King's Licence (without which the Appropriation can't be made) ought to be special also, or otherwise the King is deceived in his Grant, and by Consequence the Appropriation is void; and that no Appropriation can be made without the King's Licence, *vide Sir Will. Ethingham's Case*, in 17 *E. 3. 39. a.* and *Plow. Com. in Grendon's Case, f. 495. b.* And that in such Case the Appropriation ought to be made in such special Manner appears in *Grendon's Case*, and in 8 *Eliz. Dyer 244. pl. 60.* The 2d Reason was, That the Appropriation in the Case at Bar, was made to take Effect in Possession, and not in such special Manner after the Death of the Incumbent, as it appears before it ought by the Law.

But it was resolved, That the Appropriation was sufficient in Law, for it is true, that the Licence is general, and therefore it shall be taken in such Sense, that it may take Effect, and that is, to be appropriated after the Death of the Incumbent: And when the Letters Patents may be taken to two Intents good, in many Cases they shall be taken to such Intent as is most Beneficial for the King; but if the Letters Patents may be taken to one Intent good, and to another Intent void; then for the King's Honour, and

Postea 17. a.

1 Roll. 239.  
Plowd. 499. b.

Godolph. Abr.  
222. Plowd.  
499. b.

Plowd. 499. b.  
10 Co. 46. a.  
1 Co. 155. a. Co.  
Lit. 352. b. 611.  
7. 13. b. Br. App.  
appropriation 5.

1 Roll. 239.

8 Co. 56. a.  
167. a. 10 Co.  
67. b. Kelw.  
175. a. 198. a.  
3 Leon. 243.  
2 Siderf. 141.  
2 Roll. 200.

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(a) 1 Co. 45. a.  
8 Co. 56. a.  
167. a. Plowd.  
32. a. 126. a.  
143. b. Hardr.  
500. Fitz.  
Grant 29. Br.  
Exemption 9.  
2 R. 3. 4. a. b.

for the Benefit of the Subject, they shall be taken in such Manner that the King's Grant shall take Effect; for it was not the King's Intention to make a void Grant, and therefore with agree (a) 21 E. 4. 44. b. and Roger Earl of Rutland's Case, in the Eighth Part of my Reports, fol. 56. a. which is proper to be perused, and in the Lord Stafford's Case, in the same Part, fol. 77. a. and the Case of Sir J. Molins, in the 6th Part of my Reports, 6. a. and the Lord Chandos Case, in the same Part, fol. 55. b. and the Earl of Cumberland's Case, in the 8th Part of my Reports, fol. 167. a. And so it was resolved in the principal Case, That the Licence shall be taken to this Intent, to make the Appropriation to take Effect after the Death of the present Incumbent; and *eo potius*, because the Letters Patents were *Ex certa scientia & mero motu*, and therewith agrees a Record in the Book of Entries, *tit. quare impedit, division Appropriation*, Where the Licence of Appropriation was general, and the Appropriation after the Death of the Incumbent in these Words, *Volens & concedens ut cedente vel decedente ipsius Ecclesie nunc Rectore, quod predictus Abbas & Conventus ejusdem Ecclesie corporalem possessionem apprehenderent, ac fructus, proventus & obventiones perciperent & libere haberent*. And *vide in eodem libro, tit. Droit 1*. As to the 2d Reason, that is mistaken, for it appears by the Instrument of Appropriation found within the Record, That it was by express Words to take Effect after the Death of the then Incumbent, *Ita quod cedente vel decedente Rectore dictae Ecclesie qui nunc est, &c.* Another Reason was added, That inasmuch as always the King's Licence of Appropriation is made to the Body Spiritual, to which the Church shall be appropriated, and not to the Bishop, &c. and therefore it shall be presumed, that they would obtain it in such Form that it should avail them. Also the Licence of Appropriation is always General, and so are all the Presidents; for altho' the Rector be alive at the Time of the making of the Licence, he may die, or resign, &c. before the Appropriation.

1 Roll. 239.

35 Eliz. cap. 3.

As to the second Point, admitting the said Appropriation had been void, it was objected, that the said Act of 35 Eliz. has made it good, for thereby it is enacted and declared, *That all Manors, Lands, Tenements and Hereditaments, which at any Time heretofore were the Possessions of any Abby, Monastery, Priory, &c. which after the said fourth Day of February, in the 27th Year of H. 8. were granted or conveyed, or mentioned to be granted or conveyed, in or by any Letters Patents whatsoever, made by the said late King H. 8. to any Person, &c. were and shall be reputed, taken and adjudged to have been lawfully and perfectly in the actual*  
and

and real Possession of the said late King, and of his Heirs and Successors, at such Time as the same were granted by the said late King. And where it was answered by the Plaintiff's Counsel, That the said Act of 35 Eliz. extended only to Letters Patents made by King H. 8. and the Letters Patents in the Case at Bar, were made by Q. Elizabeth, and so out of the said Act of 35 Eliz. it was resolved, That in Truth the said Act of 35 Eliz. did not extend to this Case, <sup>35 Eliz. cap. 3.</sup> but not for the Cause alledged by the Plaintiff's Counsel; for altho' it is true, that Queen Elizabeth granted the Inheritance of the said Rectory, yet it appears by the special Verdict, That King H. 8. by his Letters Patents indented, had demised the said Rectory to William Petre Doctor of Law for 21 Years; and the Act of 35 Eliz. enacts, *That all Manors, Lands, Tenements and Hereditaments, mentioned to be granted or conveyed in or by any Letters Patents whatsoever, made by King H. 8. to any Person or Persons, Bodies Politick or Corporate, shall be reputed, taken and adjudged to have been lawfully and perfectly in the actual and real Possession of the said late King, and his Heirs and Successors; in which Purview four Things were observed; 1. The favourable Penning thereof, sc. mentioned to be granted, altho' in Effect nothing passed by the Grant. 2. The generality of the Words, first, concerning the Quality of the Letters Patents, sc. In or by any Letters Patents whatsoever, be they under the Great Seal, <sup>2 Roll. 182.</sup> the Exchequer Seal, the Court of Augmentation Seal, the Dutchy Seal, &c. Secondly, Concerning the Estate or Interest which is mentioned to pass by the Letters Patents, which is left at large, and not restrained to any in certain, and therefore if the Letters Patents purport a Grant for Life, or for Years, the Statute hath as great Operation, as to the Purview of the Act, as if the Letters Patents had purposed a Grant of an Estate Tail, or a Fee. 3. The generality of the Purview, for it extends not only to make the Grant good, but to vest the Manors, Lands, Tenements and Hereditaments of the late Abbots, &c. in the actual and real Possession of King H. 8. 4. And not only in King H. 8. but to him, his Heirs and Successors, so that the Lands shall be as well vested in the King, his Heirs and Successors, when the King grants the Land for Life or Years, as where he grants it in Fee-Tail or Fee-Simple, and so the Purview extends to three other Cases. 1. Where any such Lands, Tenements or Hereditaments, came to the Hands or Possession of the said late King H. 8. 2. Or which were put in charge to, or for his Highness in his Court of Exchequer, or any other Courts of his Majesty's Revenue. 3. Or by any Auditor, or o-*

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ther Officer of the said late King; and in every of these Cases the Purview hath so great Operation, as in Cases of Letters Patents, as to vest such Lands, Tenements or Hereditaments, in the King, his Heirs and Successors: But yet it was resolved, That the said Act of 35 Eliz. c. 3. did not extend to this Case; for the Purview has a Qualification or Restraint which has not been mentioned before at the Bar; and that is, That in the said four Cases, such Lands, Tenements and Hereditaments, shall be reputed, taken, and adjudged, in the actual and real Possession of the said late King, his Heirs and Successors, at such Time as the same did so come to his Majesty's Hands or Possession, or were so put in charge or granted, or conveyed by the said late King H. 8. as aforesaid; (then comes the Qualification or Restraint) notwithstanding, 1. any Defect, Want, or Insufficiency of, or in any Surrender, Grant, or Conveyance of the said Manors, Lands, Tenements or Hereditaments, or any Part thereof, to the said late King H. 8. 2. Or any other Matter or Cause whatsoever, by which his Highness was or might have been entitled to the same: So that the Scope and Purpose of the Act was to vest in King H. 8. all the Lands, Tenements, and Hereditaments, which the Abbots, &c. had, notwithstanding the Defects aforesaid: But if the said Appropriation was void, and was not given the King by the Statute of Monasteries, then the Prior of *Montacute*, in the Case at Bar, had nothing in the said Rectory, but the Advowson only, and *Jus presentandi*: But yet the said Act of 35 Eliz. is of great Use and Effect, for inasmuch as the Statute of 31 H. 8. gave not the King any Monasteries, Priors, &c. but only which had been surrendered, granted to the King, &c. or were dissolved; or which should be surrendered, granted, &c. or dissolved, this Act, in the said four Cases, has supplied the defect or want of a Surrender, Grant, or Conveyance, also of an insufficient Surrender, Grant, or Conveyance, so that be there any Conveyance to the King, or not, and if any be, altho' it be insufficient, the said Lands, Tenements and Hereditaments, are actually vested in the King, his Heirs and Successors. 2. If the Abbot, Prior, &c. had been disseised, or in any other Case, where an Office, *Scire facias*, Seizure, &c. was requisite to vest the Possession in the King; there the latter Words, *viz. Or any other Matter or Cause whatsoever, by which his Highness was or might have been entitled to the same*, supply all such Means by which the King might have been lawfully entitled, and put in actual Possession, *Vide 33 H. 8. Brook, tit. Chose in Action 14.* The Question there made where an Abbot, &c. was disseised, well explained

35 Eliz. cap. 3.  
31 H. 8. cap. 13.

explained and resolved. But altho' there be Defect in the Appropriation, yet (if the Rectory be in (a) Reputation Appropriate, and so has been used) it is given the King by the Statute of 27 H. 8. c. 38. or 31 H. 8. c. 13. and therefore in 19 Eliz. (b) in the Dean of Paul's Case, it was adjudged in King's Bench, That a Chantry, or College in Reputation, and not in Law, was given to King E. 6. by the Statute of 1 E. 6. within these Words, *All and all manner of Chantries, Colleges, &c.* 27 Junii, Anno (c) 29 Eliz. in Cancellar' upon an Aid prier of the King, by the Course of the Common Law, the Case was between the Lord St. John Pl. and the Dean and Chapter of Gloucester Defendant, for the Parsonage Improprate of Penmark in the County of Glamorgan, because the Patron (who before the Appropriation, had granted the Advowson to the Body Ecclesiastical, to which the Appropriation was made) in Anno 18 R. 2. was but Tenant in Tail, and yet it always continued as a Church Appropriate, it was resolved by Sir Thomas Bromley, Lord Chancellor of England, Gilbert Gerrard, Master of the Rolls, Shute and Windham Justices, (whom the Lord Chancellor in that Case associated unto him) that this Rectory in Reputation was given to the King, by the Statute of Monasteries. (d) Another Case was, Tr. 30 El. in Camera Scacc' inter T. Grimes and H. Smith, for the Parsonage of Bulbenham, in the County of Leiceſter, which Anno 22 E. 4. was appropriated to the Abby of Sulby, and no Vicar endowed there, &c. according to the Purview of the Acts of 4 H. 4. 12. 15 R. 2. 6. But there had continued a Vicar in Reputation, and the Rectory continued also as appropriated; and it was resolved, That that Rectory was given to the King by the Statute of Monasteries. (e) Hill. 4 Jac. Reg. in Cancellar' inter Bedel and Bear, for the Church of Kumbalton, which was appropriated in Anno 40 E. 3 and the Defect was, That Humphrey de Bohun Earl of Hereford (who granted the Advowson of the said Church to the Body Ecclesiastical, to which the Appropriation was made) was but Tenant in Tail; and resolved clearly, That it was given to King H. 8. by the Statute of Monasteries. Nota Reader, In the Stat. of Monasteries there is a (f) saving of Rights, &c. but the Founders, Donors, &c. are excepted out of the saving; so they are bound by the Body of the Act.

As to the third Point upon the Verdict, it was resolved, That soasmuch as the (g) special Matter found by the Jury, was not Parcel of their Charge, nor pertinent to the Issue, (admitting that the special Mat. had been sufficient to have barred the Pl. of the Tythes) it should not be regarded; for the Party griev'd thereby can't have (h) Attaint, nor the Witnesses punished for Perjury by the Stat. of (i) 5 El. because the saying of the Jury, nor the Testimony of the Witnesses was not Material to the Issue; so that inasmuch as the Issue is joined upon Prescription in the Prior and his Predecessors, to hold the said

(a) Hob. 308.  
Goldsb. 93.  
Godbolt 315.  
2 Roll. Rep. 127.  
Cro. Jac. 608.  
1 Jones 2, 3.  
4 Leon. 159, 160.  
(b) Dyer 368.  
pl. 47. Jenk.  
Cent. 245.  
1 Roll. Rep. 417.  
10 Co. 83. b.  
Hugh's Abr.  
1717 1 E. 6. cap.  
14. 4 Co. 106. b.  
108. a. 109. a.  
110. b.  
(c) Hugh's Abr.  
1717. Hardr. 51.

(d) Hardr. 51.  
Hugh's Abr.  
1717, 1718.

(e) 12 Co. 4.  
Palm. Rep. 222.

(f) Cro. Jac.  
608. 1 Jones 2, 3.

(g) Hob. 53.  
12 Co. 15. 9 Co.  
14. a. 2 Roll. 701.  
702. Hardr. 347.  
Dyer 362. pl. 15.  
Hurr. 121. Ct.  
El. 481. Cro.  
Car. 75, 76, 212.  
Plowd. 112. b.  
114. b. 1 Sid. 96.  
(h) 1 Roll. 281.  
3 Inst. 167.  
(i) 5 El. cap. 19.



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22 Acres discharged of Tythes, *a tempore cujus*, they can't give in Evidence an Unity of the Rectory and Land for 10 Years only; that if any Colour should be, that the same should be a Discharge, it is not a Discharge by Prescription *a tempore cujus*, &c. by the Common Law, but by the Statute of 31 H. 8. So that for the Insufficiency and Impertinency of the Points and Parts of this Prolix Record, the other Justices did not speak to the fourth Point of the Verdict: But the Chief Justice (for the better Direction of this and such other Cases) did declare that the Point had been resolved before, and the Causes and Reasons of the Resolution thereof. It was a long Time in all the Courts at *Westminster*, a great Question upon the said Branch of the Statute of 31 H. 8. and the Cause of the Doubt thereof stood upon two Considerations: 1. Upon Consideration of the Nature and Quality of Tythes before the said Act. 2. Upon the Words and Purview of the said Branch of 31 H. 8. And as to the first, *Quota pars*, i. *Decima pars*, which we call Tythes, (a) is an Ecclesiastical Inheritance Collateral to the Estate of the Land, and of their proper Nature, due only to an Ecclesiastical Person by the Ecclesiastical Law, and therefore no Unity of Possession can either extinguish or suspend them, but they, notwithstanding any Unity, remain *in esse*, so that they may be demised or granted to any Spiritual Man, notwithstanding any such suspension. Tythes are more Collateral to Land than a Warren, which the Owner of the Land has in it, for by Feoffment of the Land, without excepting the Warren, the Warren is extinct, as it is held in (b) 35 H. 6. 56. a. But (c) if a Prior, who has a Parsonage Improper, infeoffs another of Part of the Glebe, yet he shall have Tythes against his own Feoffment, as it is held in 42 E. 3. 13. a. and they are not like a Leet; and yet if the Lord of a Leet purchases Land within it, his Leet is not suspended, nor (if he makes a Feoffment of the said Land) is his Leet in it extinct, as it is held in 7 E. 2. tit. *Avowry* 211. and 8 Ed. 2. *ibid.* 212. But he has an Inheritance by the Common Law in the Leet, which is descendable, and which he may grant over to whom he pleases: But such Inheritance a Lay-man can't have in Tythes by the Common Law, neither shall they pass by such Words as Temporal Inheritances shall pass, and therefore Mich. 31 & 32 El. in a Prohibition betwixt *John (d) Parkins* and *Thomas Hinde* Parson of *Babington* in the County of *Somerset*, the Case was, That the said Parson by Deed indented leased his Glebe, *Cum proficuis & commoditatib' eidem spectantib'* for 95 Years, rendring Rent *Pro omnibus exactionib' & demandis quibuscunque dicta Rectoria pro clauso predicto spectantibus*; and the Question was, if the Lessee should have the said Close discharged of Tythes during the Term: And it was resolv'd *per*

(a) 1 Jones 7.  
Godolph. Abr.  
354. Cro. Jac.  
452. Degges Par-  
son's Counsellor  
104.  
114.

(b) 7 Co. 23. b.  
Dyer 30. pl. 209.  
Bur's Case.  
Dav. 5. b.

(c) Cro. Jac. 362.  
2 Bulstr. 183.  
184. 1 Roll. 655.  
Cro. Jac. 452.  
2 Co. 49. a.  
1 Co. 111. a.  
Moor 50. Dyer  
43. pl. 21. Br.  
Distines 17. Moor  
47. 532. Dav. 6. a.  
Noy. 35. 132.  
Hughes Abr. 94.  
Dall. 50.

(d) Noy. 35.  
Cro. El. 161.  
479. Degges Par-  
son's Counsellor  
226. Hctly 31.  
Owen 39. 2 Roll.  
57. Godb. 398.  
2. Bulstr. 184.

*iotam Curiam*, That the Tythes should not pass by such general Words, and as they are Tythes not severed, they are meer Ecclesiastical; for the Substraction of which, no Remedy lies by the Common Law. If a Parson purchases Land within his Rectory, and Leases this Rectory, the Lessee shall have Tythes of the Land purchased, and therewith agrees 30 H. 8. Dyer 43. pl. 21. Vide 32 H. 8. Brook tit. Dismes 17. Then inasmuch that if Tythes be considered of themselves, before the Severance of them, they are meer Ecclesiastical, and so Collateral to the Estate of the Land, that no Unity can extinguish or suspend them, but notwithstanding any Unity, they remain *in esse*; now the Words of the Act are to be considered, which are, *That as well the King, his Heirs and Successors, as all and every such Person and Persons, their Heirs and Assigns, which have, or hereafter shall have any Monasteries, Parsonages appropriate, or other Hereditaments, &c. shall have, hold, retain, keep and enjoy, as well the said Parsonages appropriated, &c. Meses, Lands, Tenements and other Hereditaments, &c. discharged and acquitted of Payment of Tythes, as freely and in as large and ample Manner as the said late Abbots, Priors, &c. had held, occupied, possessed, used, retained or enjoyed the same at the Days of their Dissolution: And upon these Words, forasmuch as the Unity doth not discharge nor suspend the Tythes, but that they were *in esse* at the Time of the Dissolution: And forasmuch also as these Words (discharge and acquit) imply actual Immunity and Freedom; and that the K. and his Patentees shall not have them discharged and acquitted absolutely, but *sub modo*, that is to say, *In as large and ample Manner, &c. as the said late Abbots, &c.* And the late Abbots held not the said Lands in Case of Unity discharged, but charged with the Payment of them; for these Reasons in short it was doubted, Whether the said Act should extend to the Case of a perpetual Unity; and it was also urged, That if the said Act of 31 H. 8. in Case of perpetual Unity should, in respect thereof, discharge the Land of Tythes, it would do a wrong; and as it is said in *Plo. Com.* in the Earl of Leicester's Case, 398. b. The Parliament is a Court of the greatest Honour and Justice, of which none ought to imagine a dishonourable Thing, and the Doctor and Student, fol. 165. cap. 55. It can't be thought, That a Statute that is made by Authority of the whole Realm, as well of the King, and of the Lords Spiritual and Temporal, as of all the Commons, will recite a Thing against the Truth, &c. And Fortescue c. 18. *Prudentia etiam & sapientia necessario statuta hujus regni referta putandum est, dum non unius aut centum solum consultorum virorum, sed plusquam trecentorum electorum hominum, quali numero clam Senatus Romanorum regebatur, ipsa sunt edita.**

Moor 47, 50.  
Nov 35, 132.  
2 Bullitt, 183,  
184.

Moor 219, 532.  
Dav. 6. a. Dall.  
50. B.N. C. 178.

Co. Lit. 110. a.

But

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But at length, upon great Consideration it was resolved and adjudged, That a (a) perpetual Unity, *a tempore cujus, &c.* till the Dissolution, should be *prima facie* a Discharge of the Land of Payment of Tythes, by Force of the said Branch of 31 H. 8. c. 13. for divers Reasons. 1. The (b) Statute doth not say discharged of Tythes, but discharged of Payment of Tythes, and divers other Reasons, the chief of which was, for the (c) infinite Impossibility, and impossible Infiniteness, so that such Immunities and Discharges which Religious Houses had before Time of Memory, cannot be known. And it was expressly resolved, That a general Allegation of Unity at the Time of the Dissolution, &c. without an Averment that it was perpetual, was not sufficient: And altho' it had been a perpetual Unity, (d) yet if the Farmers of the Lands of the Rectory had paid Tythes before the Dissolution, then the Intendment and Presumption of Law, upon the perpetual Unity, failed: And all this you may see in the *Archbishop of Canterbury's Case, in the second Part of my Reports*, and divers Judgments and Resolutions there cited, fol. 48, & 49. So that such Unity, which is within the said Branch of the Act of 31 H. 8. ought to have (e) four Qualities. 1. *Talis unitas* ought to be *justa*, rightful and not by wrong. 2. It ought to be *equalis*, *s. Fee* in the one and the other; for if the Abbots, Priors, &c. have held by Lease, *a tempore cujus, &c.* that is not an Unity within the Statute. 3. It ought to be *perpetua a tempore cujus, &c.* 4. It ought to be *libera*, free of Payment of any Tythes: But if their Farmers at Will, for Years, &c. have paid Tythes to them (as hath been said) the Unity perpetual will not serve. But it was asked, What if the Appropriation was made in the Times of *E. 4. H. 6. H. 4. R. 2. E. 3, &c.* and yet in Law within Time of Memory, and Unity had continued from the Time of the Appropriation until the Dissolution, and Tythes were never paid, neither by the Abbots, &c. or their Farmers: Should not the Statute extend to those Causes? And it was answered, No, upon the Point of Unity; for if he will take the aid of the Act of 31 H. 8. the Unity, as hath been said, ought to be Perpetual. But in such Case he may alledge the said Branch of the Act of 31 H. 8. concerning the discharge of Payment of Tythes, &c. (f) and that the Abbots, &c. *a tempore cujus, &c.* untill the Dissolution, have held the Land discharged of Tythes (as he may well prescribe by the Common Law) and give such Evidence that he may approve it: And so if in Truth, the Land be discharged, he has sufficient Remedy to relieve himself. *Vide the Bishop of Winchester's Case, in the second Part of my Reports, fol. 44. b. 45. a.* But if the Abby, or Priory, &c. was founded within

(a) Moor 50.  
Hob. 311.

(b) Hob. 297.

(c) 2 Co. 48. a.  
Hob. 298.

(d) Cro. Jac. 559.  
2 Co. 48. a.

(e) Cro. Jac.  
453. Hob. 311.  
Degg's Parlon's  
Counsellor 334.  
Godolph. Abr.  
454.

(f) 2 Co. 44. b.  
45. a. Cro. Car.  
423. Hob. 300,  
311.

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within Time of Memory, then he can't prescribe *omnino*, Hob. 300. 2 Co.  
48. a. Yelv. 31. and forasmuch as in the principal Case, the Appropriation was made in 20 H. 8. so that it appeared to the Court, that before that, the 22 Acres were charged with Tythes; for of Common Right all Lands ought to pay Tythes; for that Reason the Chief Justice concluded, That the said 22 Acres were, as this Case is, chargeable with Tythes; but if the Parties are not satisfied with it, they may begin again: For inasmuch as the Information, as it is resolved, is good; and the Plea, *Pro consultatione habenda*, altogether insufficient; and the Verdict impertinent to the Issue, they would not grant a Consultation; and thereunto the whole Court agreed.

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Mich. 11 Jacobi Regis.

Which is entred in C. B. Pas-  
cha 11 Jac. Regis. Rot. 2559.

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Dr. GRAUNT's Case.

**T**HE Case was, That *Gabriel Graunt* Doctor in Divinity, Parson of the Parish of *St. Leonard* in *Foster-Lane*, *Intra præcinctum Sancti Martini le Grand*, libell'd in the Spiritual Court before *Dr. Master*, Official of the Dean and Chapter of *Westminster*, against *Edward Taylor*, Farmer of a great and ancient House, called the *Dean's House*, within the Precinct of *St. Martins le Grand*, late Parcel of the Possessions of the Abbot of *Westminster*, and alledged, That every Parishioner, or Inhabitant having, or occupying a Mansion-House, Shops, Ware-Houses, Cellars or Stables, within the said Parish of *St. Leonard*, within *St. Martins le Grand*, yearly every Quarter of the Year, at the Feasts of *Easter*, the Nativity of *St. John* the Baptist, *St. Michael* the Arch-Angel, and the Birth of *Christ a tempore cujus*, &c. or at least from the Foundation, Donation, and Erection of the said Rectory of *St. Leonard*, by equal Portions to the Parsons of the said Rectory for the Time being, *Nomine & loco decimar' suar'*, *juxta ratam cujuslibet viginti solidat' redditus per an. ex qualibet hujusmodi*

*hujusmodi domo, shopa, sollar, cellar, five stabulo sic ten' five occupat' in pradicta parochia, duos solidos legalis moneta Anglia, &c.* and that the said Edward Taylor and his Family, did dwell in the said House three Years, and had, and possessed it for the same Time *Sub annuali redditu sexdecim librarum seu saltem 12 librarum, &c.* and so demanded Two Shillings in the Pound, &c. The said Edward Taylor exhibited an Information and Suggestion to the Court, That the late Abbot of Westminster, and all his Predecessors, till the Dissolution of the said Monastery which was an. 30. H. 8. had held the said House discharged of Tithes, and alleged the Statute of 31 H. 8. concerning the Discharge of Payment of Tithes, and conveyed to himself a Lease for Years, and thereupon had a Prohibition; to which the said Doctor Graunt appear'd, and Taylor declared against him to the Effect aforesaid, and Doctor Graunt traversed the said Prescription of Discharge of Tithes; whereupon Issue was joyned, and tryed before me in London for Doctor Graunt: And now it was moved by Taylor's Counsel, That upon the said Libel, no Consultation ought to be granted; for *de communi jure*, no Tithes ought to be paid for Houses of Habitation, nor for any Rent reserved upon any Lease made of them; for Tithes ought to be paid of Things which grow and renew from Year to Year by the Act of God, *Vide Registr' 54 b. F. N. B. 53. E. Br. tit. Dismes 16.* and not for dwelling in Houses, or of Rents issuing out of Lands, reserved and created only and merely by the Act of the Party: And therefore in the City of London, the Parsons have Two Shillings and eight Pence in the Pound, &c. in Name of Tithes; but that is by Decree made Anno 1535. which is enacted and confirmed by Authority of Parliament, *An. 37 H. 8. c. 12.* But St. Martin's le Grand is not included within the said Decree, and Act, for it is within London, and not of it; and therefore remains at the Common Law. And in 30 E. 3. fol. 1. a. & 38 E. 3. fol. 13. a. by Finchlen it is said, That the Profits of the Church in London, are the Oblations and Obventions.

But it was resolved *per totam Curiam*, That a Consultation should be granted, for it may have a lawful Beginning; for it may be, that for all the Tithes of the Land, upon which the Houses are built, this *Modus Decimandi* has been a *tempore cujus*, &c. paid; and altho' it is after built, that shall not take away the Right of the Parson in such Case. And because it might have a lawful Beginning, and that it has been used a *tempore cujus*, &c. it was therefore resolved, That a Consultation should be granted.

It was likewise resolv'd, That for these Mo. he might sue in the Latch 210.

Degg's Parsons  
Councillor 264.  
1 Rol. 636. Hob.  
11. Cro. Car.  
596. Moor 912.  
Godolph. Abr.  
349. Cro. El.  
276. 2 Inst. 651.  
2 Rol. 284.

Hob. 11. Moor  
912. Cro. Car.  
596. Cro. Eliz.  
276.

Hugh's Abr.  
676.

Hob. 11. Rol.  
642. Degg's Par-  
son's Councillor  
264.

Hob. 11.

2 Rol. 283, 284.  
the Latch 210.

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Hob. 247. 1 Rol.  
Rep. 419. 3 Bul.  
241, 242.

40 E. 3. 1. 2.  
38 E. 3. 13. 2.

the Ecclesiastical Court, because they are in the Nature of Tithes, viz. *Modus decimandi*; and every antient City and Borough has for the most Part such Custom *De modo decimandi* for their Houses, for the Maintenance of their Parson. And as to the Opinions in 30 E. 3. & 38 E. 3. it was said, That *Obventio dicitur ab obveniando*, and includes Oblations, Rents, or other Revenues, which may well agree with the Resolution before; and afterwards Consultation was granted.

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## Mich. 10 Jacobi Regis.

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### Sir HENRY NEVIL's Case.

**P**Ascua, 9 Jac. Regis, Rot. 925. In a second Deliverance Cro. Jac. 227.  
2 Bulltr. 235. between Alexander Goodcrome Plaintiff, and H. Moor Defendant, in the Common Pleas, upon the long and intricate Record, the Case was briefly such. Sir Henry Nevil Knight, was seised of the Manor of Wargrave, which extended it self into Warfield and divers other Towns, in his Demesn as of Fee; whereof one House, one Yard of Land, and eighteen Acres of Land were parcel: And Alexander Goodcrome alledged a Custom in this Manor, viz. quod infra præd' Manerium de Wargrave est & a tempore cujus contrar' memoria Hom' non existit, fuit un' Manerium customar' sc. manerium de Warfield, quod quidem manerium de Warfield per totum idem Temp' consistebat de Terris dominicalib' & servitiis customariis, viz. de præd' messuagio & virgata terra & de 18 ac' terra, ac omnibus redditib' & aliis pertinen' customar' in Warfield, eidem Manerio customar' pertinen': quodque præd' tempore quo, &c. necnon a toto tempore cuj' contrar', &c. diverse parcellæ præd' messuagii & virgat' terra præd' & de præd' 18 acris terræ, fuer' terræ customar' ejusdem manerii de Warfield, & dimiss'. & dimissibel' per copiam Rot' Car' ejusdem manerii de Warfield per Dom' ejusdem manerii vel per seneschallum Domini ejusdem manerii pro tempore existen', diversis personis ea capere volenti seu volentibus in feodo simplici, ad termin' vite, vel Annorum, ad Voluntat' Dom' secundum Consuetudin' ejusdem manerii, &c. quod quidem manerium de Warfield est, & \* toto temp' supradicto fuit parcel' manerii de Wargrave teni' de eodem

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Sir HENRY NEVIL's Case. PART XI.

*eodem manerio de Wargrave per copiam Rot' Curie ejusdem manerii de Wargrave, ac dimiss. & dimissibil' per copiam Rot' Cur' ejusdem manerii, per Dom' ejusdem manerii vel per seneschallum suum ejusdem manerii pro tempore existen' cuicunq; persona sive personis ill' capere volenti vel volentib' in feodo simplici, ad termin' vite, vel annorum, ad voluntatem Domini secundum consuetudinem ejusdem manerii de Wargrave, per nomen unius messuagii & unius virgate terra & 18 acr' terra & omnium reddituum & aliorum pertinen' in Warfield: And Sir Henry Nevil at the Court of his Manor of Wargrave an. 28 Eliz. granted to Robert Albany the Manor of Warfield, per nomen Unius Messuagii, unius virgate terra & 18 Acr' terra & omnium reddit' & aliorum pertinen' in Warfield, To have and to hold to the said Robert Albany and his Heirs, at the Will of the Lord of the said Manor of Wargrave, according to the Custom of the same Manor: Et idem Alexander ulterius dicit, quod infra præd' manerium de Wargrave talis habetur, & a toto tempore cuj' contrar' memoria Hom' non existit habebatur consuetudo, quod quilibet Domin' customar' dicti manerii de Warfield per seneschallum suum usus fuit tenere Cur' infra dictum manerium de Warfield pro & concernen' customarios tenentes suos præd' manerii de Warfield præd' diversar' parcel' terre per copiam Rot' Cur' ejusdem manerii dimissibil' secundum Consuetudinem ejusdem manerii de Warfield, ut præfertur, quodque præd' 2 acr' terra cum pertinen' in quibus &c. are & a tempore cuj' &c. were Parcel of the said customary Manor of Warfield, & dimiss. & dimissibil', &c. And the said Goodcrome claim'd by Grant by Copy of the said 2 Acres made by the Steward of the Lord of the said customary Manor of Warfield: And Issue was taken, whether infra præd' Manerium de Wargrave est & a toto tempore, &c. fuit un' manerium customar', viz. manerium de Warfield, dimiss. & dimissibil' per copiam Rot' Cur' præd' manerii de Wargrave prout, &c. And the Verdict was Le vicineto manerii de Wargrave, and the Tryal was at the Bar, and the Issue was found for Goodcrome the Plaintiff, viz. That there was such a Customary Manor; and it was moved in Arrest of Judgment, That there could not be such a Customary Manor by Law; for of a Copyhold (which is but a Tenure at Will) there can't be Lord, Mesu, and Tenant; but of a Freehold at the Common Law only.*

But it was clearly resolved *per totam Curiam*, That a Customary Manor may be held by Copy, and such Customary Lord

Lord may hold Courts, and grant Copies, and such Customary Manor shall pass by Surrender and Admittance, and Fines shall be paid upon Admittance as well upon Alienation as Descent. And there may be Lord Customary, Mesn, and Customary Tenant, as well in Case where the Mesnalty is a Tenancy at Will according to the Custom of the Manor, as where there is a Tenancy at Will at the Common Law, of a Manor. And if such Customary Manor is forfeited, the Lord shall have the Customs and Services appertaining to it; As if Tenant at Will of a Manor grants Copies, and reserves Rents and Services, these Rents and Services are annexed to the Manor, and shall attend upon the Owner of the Manor after the Will determined, altho' the Lord of the Manor doth not claim by or under, but above him and without any Privity in Estate: So in Case of him who is Tenant for Life or Years of a Manor, the Rents and Services reserved by them, shall go to them in the Reversion: And so note a Difference betwixt Reservations at the Common Law, and by the Custom of the Manor. And afterwards a Writ of Error was brought, and the same Matter assigned for Error, which was clearly over-ruled by the whole Court of *King's Bench*; and Exception was also taken to the Visne, that it should be (a) also of *Warfield*, *sed non allocatur*, for the Issue rises upon the Custom within the Manor of *Wargrave*, and it appears that the Tenements in *Warfield* are Parcel of the Manor of *Wargrave*; and thereupon the Judgment was affirmed: And it was said that the Manor of *Ailesham* in the County of *Norfolk*, is held by Copy, and others in several other Places.

1 Bulstr 56, 57

1 Co. 96. d.

(a) 2 Rol: 617;  
619, 620. 2 Bulstr  
135. Cr. Jac.  
327. Cro. Car.  
312. 1 Jones 3205  
165, 17 Car. 2.  
c. 8.

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# Hill. 11 Jacobi Regis.

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## Dr. AYRAY's Case.

Lanc 15, 33.

John Alcock Gentleman, brought an Action of Trespass against Henry Ayray Doctor of Divinity, William Witham, William Parsons, and Thomas Priest, (which Plea began in the King's Bench, Trin. 9 Jac. Regis Rot. 413.) and declared of a Trespass 1 Martii anno 8 Regis Jacobi in an House of the Pl. called the Parsonage House, and the Plaintiff's Clofes, viz. One called the Parsonage Clofe, and another containing ten Acres of Glebe Land at Charlton super Otemore, in the County of Oxford. The Defendants pleaded *non culp.* and a special Verdict was given to this Effect, That the Places in which, &c. were Parcel of the Glebe of the Rectory of Charlton super Otemore; whereof the said Henry Ayray at the Time of the Trespass, &c. was, and yet is Parson, and that King E. 3. 18 Jan. in the Fourteenth Year of his Reign by his Letters Patents under the Great Seal, *Ad honorem Dei, & augmentation' cultus Divini, de gratia sua speciali concessit & licentiam dedit Roberto de Eglesfield Clerico ipsius nuper Regis, quod ipse in quodam Mesuagio suo cum pertin' in Oxon' in Parochia Sancti Petri in Oriente, quendam Aulam Collegialem de Scholaribus, Capellanis, & aliis, perpetuis Temporibus duratur', sub Nomine Aula Scholar' Reginae de Oxon', qua per unum Praepositum de dictis Scholar' juxta ordinationem praefati Roberti inde faciend' gubernabitur, construere & de novo fundare, ac mesuagium illud cum pertin' praefatis Praeposito & Scholaribus dare possit & assignare, Habendum & tenendum sibi & Successoribus*

Full. Ch. Hist.  
113. 1 Buitt. 91.

soribus suis Præpositis & Scholaribus Aula illius pro eorum inhabitatione imperpetuum. Et eisdem Præposito & Scholaribus, quod ipsi mesuagium prædictum a præfato Roberto recipere possint & tenere sibi & successoribus suis prædictis, sicut prædictum est, tenore præsentium licentiam similiter dedimus specialem. Et memoratam Aulam cum Præposito & ceteris sociis per electionem in futurum habitantibus & morantibus in eadem, quos ad verum Collegium erigimus & existere extunc præponimus, & ut Collegium licitum & approbatum agnoscamus, auctoritate nostra plena qua possumus, acceptamus, ratificamus, & confirmamus: Statui de terris & tenementis ad manum mortuam non ponendis editi, aut quocunque alio statuto vel ordinatione in contrarium facti non obstante. Nolentes quod prædictus Robertus vel heredes sui, seu præfatus Præpositus & Scholares aut Successores sui ratione præmissorum, &c. occasione, molestentur in aliquo, seu graventur, &c. They further found, That King James that now is, 11 Oct. Anno 8. of his Reign, had exemplified under the Great Seal the said Charter in the Records of the Chancery, enrolled in the Tower of London, and in the Exemplification, the Clause of *sub nomine*, was, *sub nomine Aula Regina de Oxon*, whereas in Truth the Charter was, *sub nomine Aula Scholarium Regina*; so that this Word (*Scholarium*) was in that Clause omitted. And they further found, That the said Robert de Eglesfield, *Postea virtute licentie prædictæ fundavit Collegium prædicti in Oxon prædicti, & condidit diversas leges & statuta pro regimine Collegii prædicti & Scholarium in eo allocat & allocand prout patet ex Rotulo patentiæ de Anno 1 Regis Rich. 2. Juratoribus prædictis in evidenc ostens*, the Tenor of which is entred in the special Verdict in hac verba: By which it appears, that the said Robert de Eglesfield by his Charter nominated the said College, *Aula Regina æternaliter nominand*, & Scholares also he nominated in it in divers Places *Socii*; and by the same Deed constituted divers Ordinances and Statutes, for the better Government of the said College. And the Jury further found, That King H. 8. was seized of the Advowson of the Church of Charleton *super Otemore prædicti* in Fee in the Right of his Crown, and 4 Julii Anno 35 Regni sui by his Charter under the Great Seal granted the said Advowson to Richard Andrews and Nicholas Temple, and their Heirs, who by their Deed 8 Julii, 35. granted the said Advowson to William Devendish, and Francis Shawe, and their Heirs. And that 8,

Dr. AYRAY'S Case. PART XI.

July, 1509. quidam Hugh Hodgeson tunc Præpositus Aula præd' & Scholares ejusdem Aula, per nomina Hugonis præpositi Collegii Regina in Universitate Oxonia & Sociorum & Scholarium ejusdem Collegii, by their Deed under their Common Seal, presented one Allen Scot to the said Church, then void, who was admitted, instituted, and inducted; and that the said Allen Scot, 20 Maii Anno 10 Domina Elizabetha nuper Regina Anglia (the said Allen then being Parson of the said Church, and Provost of the said Hall) by his Deed demised the said Rectory of Charlton super Otmore to William Shillingford for the Term of 81 Years, and afterwards, viz. the 30 Day of the same Month of May, Præpositus Aula sive Collegii præd' & Scholares ejusdem Aula, per nomina Præpositi Sociorum & Scholarium Aula vel Collegii Regina in Universitat' Oxon' Rectorie Ecclesie de Charlton super Otmore Patroni, per Scriptum suum sigillo suo communi Sigillat', confirm'd the said Demise; and that Hugh Bishop of Oxford, Ordinary of the said Place, confirm'd it also in the said tenth Year, in the Life of the said Allen Scot; and that Allen Scot died: After whose Death, the said Henry Aray to the said Church then void was lawfully presented, admitted, instituted, and inducted; and that the said John Alcock had the Estate and Interest of the said William Shillingford, who entred into the said Rectory, and was thereof possessed. And that the said Henry Aray then being Parson, and the other Defendants, by his Commandment entred into the Tenements, in which, &c. upon the Possession of the said John Alcock, &c. and the Doubt which the Jury referred to the Court, was, Whether the said Demise of the said Rectory was well confirmed or not, &c. And it was objected, That as well the said Confirmation, as the said Presentation, were utterly void, by Reason of the Misprision of the true Name of the Corporation: And therefore the first Question which was made, was, What was the true Name of the Corporation; and they conceived, That the true Name of the Corporation was Præpositus & Scholares Aula Scholarium Regina de Oxon'; and this Name they collected out of the Words of the Charter it self, That the King licensed the said Robert Eglesfield to Found Quendam Aulam Collegialem de Scholaribus, &c. sub nomine Aula Scholarium Regina de Oxon', quæ per unum Præpositi de dictis Scholar', &c. gubernabit. Then this being the true Name, betwixt the true Name of the Corporation and the said Confirmation, five Differences were observed, sc. three

Co, Lit. 300. b.

1 Rol. Rep. 415.  
Moore 865.

*sc.* three in Addition, one in Alteration, and one in Omission. In Addition, first of this Word (*Sociorum*) for the Confirmation is, *Præpositus, Socii & Scholares*, where it should be *Præpositus & Scholares*. Secondly, of these Words, (*vel Collegii.*) Thirdly, of this Word (*Universitate.*) In Alteration, *sc.* (*de*) for (*in*) for the true Name of the Corporation was *de Oxon'*, and the Confirmation was in *Universitate Oxon'*. In Omission of this Word (*Scholarium*) in a Material Place, where it should be *Aula Scholarium Regina*, it is *Aula Regina*. And in the Presentation; divers Variances were observed; one Alteration, *sc.* *Collegii* for *Aula*; and the other Misprisions in Addition, Alteration and Omission. And all these were argued at the Bar by *Coventry* and *George Croke*, on the Plaintiff's Part, and by *Thomas Crew* and *Yelverton* Solicitor for the Defendant; and all the said Variances, but one, were unanimously resolved by all the Justices to be without Question, and not worthy of any Argument; and were not of any Force to impeach the said Confirmation or the said Presentation: And the only Point which had any Scruple, was the said Variance of the Omission of (*Scholarium*) after this Word (*Aula.*) And that depends only upon the Consideration of the true Name of the Corporation; and what Diversity was betwixt this Case, and the Case of *Fisher* and *Boys*, reported by me in the Tenth Part of my *Reports*, in the Case of the Mayor and Burgeses of *Lyons*, which you may see there; which Case was affirmed by all the Justices to be good Law.

<sup>2</sup> Roll. 42. Cr. El. 167, 232.

Hob. 125. 2.  
10 Co. 125. M<sup>o</sup>. 266. 1 Anderson.  
196. Lane 15, 34.

And yet it was resolved, That in the Case at Bar, as well the Confirmation as the Presentation, was good enough, notwithstanding the Omission of the Iteration of this Word (*Scholarium.*) For it was resolved, That upon Consideration of the said Charter of King *E. 3.* and of the Instrument of the said *Robert de Eglesfield*, the true Name of the Corporation was *Præpositus & Scholares Aula Regina de Oxon'*; for it appears by the Charter it self, that the Name of the Corporation required only once *Scholares*, and not any double Iteration of it (which as it was said was *Oculus questionis*) and that for divers Reasons: 1. That in the Clause of *sub nomine*, this Word was but once mentioned: 2. Altho' in the *sub nomine* it is said *Aula Scholarium Regina*, yet in Construction, as in many Cases is used, it ought to precede these Words *Aula Regina*; and that for three Reasons: 1. Otherwise it would be a sole Corporation consisting upon a Provost only; for then the Corporation would be *per Nomen Præpositi Aula Scholarium Regina*, and

Hob. 124. M<sup>o</sup>ck. 805.

and not a Corporation aggregate of many, as every one has agreed it was: 2. Immediately after these Words, *Sub nomine Aula Scholarium Regina*, these Words are added, *Quæ per unum Præpositum de dictis Scholaribus, &c. gubernabitur*: So that it clearly appears, that this Word (*Scholares*) should be but once mentioned in the Corporation: 3. Such Construction is directly approved by 3 Interpreters *Omni exceptione majores*, *sc. King E. 3.* in his Charter, the said Founder *Robert Eglesfield* in his Instrument of Foundation, and the Incorporation it self: 1. By the Charter in the next subsequent Words, it is said, *Ac Mesuagium illud cum pertinentiæ præfatæ Præposito & Scholaribus dare possit, &c.* Where these Words, *Præpositi & Scholares* are joined together; also there the *Habendum* is, *Habendum & tenendum sibi & successoribus suis, Præpositis & Scholaribus Aula illius*, In which Words the King not only conjoins the said Words together, but also the King gives Precedence to this Word *Scholaribus*, before *Aula illius*, and no Mention of them after, also *Nolentes quod præfatæ Præpositus & Scholares aut successores sui, &c.* 2. In the Instrument of the said *Robert de Eglesfield*, the Founder ordains, That the said College shall be always called *Aula Regina*, (and not *Aula Scholarium Regina*) and he saith, *Aula Regina æternaliter nominanda*: 3. The Corporation it self, from the said Time of Incorporation, never accepted any Grant, or made any Grant with double Iteration of this Word (*Scholares*) but with a single Mention of it only, as appears by many, and almost infinite Precedents: Also it was never called in Vulgar Appellation, *Queen's Scholars College*; neither doth any one know it by such Name, but every one knows it by the Name of *Queen's College*. And by this Determination of the true Name, it appears, That there is not any Affinity betwixt the said Case of (*a*) *Fisher and Boys*, and the Case at the Bar; for there is a double Iteration of this Word (*Scholares*) in two material Places, and in the Case at Bar but one single Mention of it only.

And as to the other Variances, it was resolved, That none of them were material; for first, *Nomen est quasi rei notamen*, and *Nomina sunt nota rerum*, and were invented to make a Distinction between Person and Person; and in the Case at Bar, the College was called by such Name that it might be well distinguished from every other College in the same University: 2dly, Altho' it is said in 21 E. 4. 55. and other Books, that the Name of an Incorporation is like the Name

(2) 19 Co. 125. a.  
Moor 266. Lane.  
153 34. 1 Anderf.  
196.

Name of Baptism: Yet if the Person be so (a) described, that he may be certainly known from other Persons, the Omission, or in some Case the Mispronunciation of the Name of Baptism shall not avoid the Grant; as a Gift (b) *Omnibus filiis J. S. or primogenio filio J. S. or (c) uxori de J. S. or filia de J. S.* when there is but one, &c. 37 H. 6. 30. b. 11 E. 4. 2. a. 18 E. 3. 30 E. 3. 18. b. 12 Aff. 16. and in (d) 27 E. 3. 85. a. b. The Name of Baptism of the Abbot of W. was *Richerus*, and he by the Name of *Pichardus*, Abbot de W. made a Grant; and altho' his Name of Baptism was mistaken, yet because the other Words, *sc. Abbas de W.* did certainly describe the Person; for this Cause the Grant, notwithstanding the Mispronunciation of the Name of Baptism, was good. So if a Grant be made to *J. S. & Margareta uxori sua*, where the Wife's Name is *Margeria*, or to *J. S. & Mariotta uxori sua*, where the Wife's Name is *Marion*, yet the Grant is good; altho' the Name of Baptism be mistaken, because *uxori sue* is a certain Description of the Person. 1 H. 5. 8. a. 46 E. 3. 22. a. b. 1 Aff. 11. 12 Aff. 16. 9 H. 7. 9. 3 H. 6. 25. b. 12 R. 2. Feoffments & Fairs 58. 22 E. 3. Brief 936. 9 E. 3. 14. 46 E. 3. 22. a. b. 14 H. 7. 21. So (King) is a Name of Incorporation; yet a Grant made to the King by the Name of (Sovereign Lord James) omitting this Word King, is good enough: For, *Nilil facit error nominis cum de corpore constat; and hac fuit vetus & constans Opinio* in the Case of Corporations. And therefore in 26 E. 3. 66. 67. a. *Isabel*, Queen of England, brought a Writ of Covenant against *William*, Prior of Coventry; for that *Hugh*, Prior of Coventry, his Predecessor, and his Covent, did submit themselves to the Award of the said Queen and her Council, for the Heritage which was of R. N. in Coventry, *Et partibus adjacentibus*; and of the Queen's Tenements in Coventry, and of those which were in Aid of her, and also of the Tenements of the Prior of Coventry, and which were in Aid of him; and the Deed of Covenant was, *Hugh* Prior of our Lady of Coventry. *Mutford* who was of Council with the Defendant, you have in your Writ and Count omitted (Our Lady) Judgment of the Variance betwixt the Corporation and the Specialty: To which *Green* of the Plaintiff's Council said, That the Prior, and also the Church of Coventry, is founded by the Name of St. *Michael*, and so I cannot have a Writ according to the Specialty; for you may abate the Writ, notwithstanding the Deed shall be good; and *Mutford* by the Rule of the Court was put to Answer; wherefore he pleaded other Matter. So that in those Days the Mispronunciation in a Deed of the Saint, to whom the Corporation was dedicated, was not sufficient to avoid their Deed; because

(a) Co. Lit. 3. a.  
Hob. 32. 36.  
2 Roll. 43.

(b) Br. nosine 9.  
2 H. 4. 25. a. b.  
Br. done & rem-  
mainder. 17. Co.  
Lit. 3. a. Br.  
Grant 54.

(c) Br. Grant  
65. 1 Aff. 111.  
Br. Grant 63.  
(d) Fitz. Grant.  
67.

Co. Lit. 3. a.  
Cr. El. 111.

Fitz. Feoffment  
& Fairs 37.  
2 Roll. 43. Br.  
Grant 63, 65.  
Br. nosine 36.  
Co. Lit. 3. a. Br.  
Grant 22. Br.  
Fait 82. 1 H. 7.  
29. a.  
Co. 65. b.



(a) 6 Co. 65. b.  
10 Co. 126. a.  
133. a. 5 Co.  
12. a.

because *Hugh*, Prior of *Coventry*, was a certain Description of the Corporation. But it might (a) abate the Writ, because he might purchase another Writ. *Vide F. N. B.* in the Writ *de Corodio habendo*, the Name of the Saint omitted: And where there was a Prior of our Lady of *Southwark*, and a Prior of the *Trinity* of *London*; and the said Prior of Our Lady of *Southwark* of old Time by the Name of the *Canons* of *Southwark*, granted by their Deed to the other Prior, by the Name of *Canons* of *London*, an Annuity, &c. and it was adjudged good in 17 E. 3. 32. a. For although the precise Name of the Corporation was not pursued, and the Saint to whom the House was dedicated, omitted; yet because in Truth the Prior of each of the Houses was one of the *Canons* thereof; for that Cause (for as much as *constabat de personis*) prudent and grave Antiquity did adjudge such Grant good: It likewise appears in our Books, that the Name of the Corporation of *Templers*, was, *Magister Militie Templi de Jerusalem in Anglia & confratres sui*, 3 E. 3. 11. 5 E. 3. 36. 31 E. 1. Tryal 99. And the Name of the Corporation of the Priory of *St. John's* of *Jerusalem*, *Prior Hospitalis Sancti Johannis de Jerusalem in Anglia & confratres sui*, as appears in 44 E. 3. Then the Statute of *Templariis* is worthy of Consideration made Anno 17 E. 2. in the Preamble of which, Mention is made, *De annullat' ordin' Militie Templi & de fratribus ejusdem ordinis*; and in the Body of the Act, *Ordo Militie Templi & de fratribus ejusdem ordinis*, and it is Enacted by the same Act, *Quod omnia terre tenementa, &c. que fuerunt dictorum Templariorum, assignentur & liberentur ordini fratrum Hospitalis Sancti Johannis Jerusalem, Habend' & tenend' eisdem Priori & fratribus & successoribus suis, de Domino Rege & aliis Dominis feodorum predicti, per illa eadem servitia per que fratres ordinis Militie Templi ea tenuerunt*: In which Act, altho' the Makers of the Act do not follow the precise Words of the Corporation, either of the *Templers* or *Hospitalers*; yet because they were so certainly described, *Quod constat de personis*, the Words of the said Act were sufficient to transfer the Possessions, *Magistri Militie Templi Jerusalem in Anglia & confratrum suorum, Priori Hospitalis Sancti Johannis Jerusalem in Anglia & confratribus suis*, and so has it been always allowed in our Books, 1 Edw. 3. 9. 3 E. 3. 11. 5 E. 3. 36. 35 H. 6. 46. *Vide* 2 E. 4. 24. b. *John* Abbot of *D.* made a Bond by the Name of *J. C. Clericus de D.* and held good; and yet the Abbot is a dead Person, as to all Respects, but to such Acts which he

Br. Abbey &  
Prior 31. Fitz.  
Obligation 6.

he doth as Abbot: And a Man may have a Writ of Right of Advowson, *De Advocatione Ecclesie de D.*; and then if there be two Churches in one Town, the Tenant shall have the View; but if there be two Churches in one Town dedicated to two several Saints, for Example to *St. Mary* and *St. Peter*, then if a Writ be brought *De Advocatione Ecclesie Sancte Mariæ de D.* the Tenant shall not have the View; So by that it appears, That in a Writ of Right of Advowson, wherein the Advowson of the Church shall be recover'd, the Demandant may in his Writ, add or omit the Name of the Saint at his Pleasure. 48 E. 3. 31. a. Fitz. View 22. 21 E. 3. 57. 36 H. 6. 16. a. Registr. 33. a. & F. N. B. 49. 0. 62. Br. View 70. 33 E. 3. Si Præbendarius Præbendæ de N. in Ecclesia Sancti Petri Eborum, without saying in *Ecclesia Cathedrali*, which is in View 183. 19 E. 3. View 105. London, and in *Ecclesia beata Mariae Lincoln*, &c. in 18 E. 3. fol. 10. b. & 11. a. the Case was, That in the Town of *Toft-Newton* there were two Churches, one of *St. Michael*, the other of *St. Peter* and *St. Paul*, and the Truth was, That *Toft-Newton* was one Town, and in that was a Church known by the Name of the Church of *Toft-Newton*; and in *Newton*, which was an Hamlet of *Toft-Newton*, was another Church known by the Name of *Newton tantum*, and there a *Quare impedit* was brought *ad Ecclesiam de Toft-Newton*, without more, & bene, altho' the Saint was omitted; because there was a sufficient Difference by which the Church, whereof the Writ is brought, may be known, and therefore *Wilby* Chief Justice, who gave the Rule, said, the Church is certain enough; wherefore Answer, and there Issue was taken not of the Name of the Town, but of the Sirname of the Church, *sc.* That there were two Churches in *Toft-Newton*, *absque hoc* that either of the Churches bears the Name of the Church of *Newton*: and in 17 E. 3. 48. a. b. one was named *Burgensis de novo Castro super Tinam*, and Exception was taken, That *Burgefs* ought to be of a Town certain, and not of a Castle, *Sed non allocatur*; for the ancient Judges of the Law did reject such Niceties concerning Appellations or Names. And as to the Addition of this Word (*Sociorum*) in the Presentation, that doth not impeach the Presentation, for notwithstanding this Addition, the College is certainly enough described, that it may be distinguished from every other; and for any Thing that appears in the Case, *Socii & Scholares* may be *Synonima*, and in the said Charter, the King names *Scholares* by the Name of *Socii*, *Vide* 20 E. 4. 20. according to this Resolution.

And for the Addition of *Universtate*, it was clearly over-ruled, as before it was in the said Case between *Fisher* and *Boys*, and for the Reasons and Causes there reported. Lanc 15. 34. 1 Anderl. 196. 10 Co. 125. a. Moor 266.

So

Dr. AYRAY's Case. PART XI.

So for the Addition of these Words (*vel Collegii*) after this Word (*Aula*) and for putting this Word (*Collegii*) in lieu of (*Aula*) none of these have any Colour of material Variance, but are *eadem re & sensu*. And King E. 3. in his Charter called the said Hall a College, as in Truth it is. And I have made a briefer Report of this Case, because I have published the Case of the Major, &c. of *Lynne*, in the last Part of my *Commentaries*, which stands in Effect upon the same Argument; and divers Judgments cited there tend to the same End.

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Cro. El. 167.  
2 Roll. 42.  
Hob. 124.

Trin.

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# Trin. 12 Jacobi Regis.

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## HENRY HARPUR's Case.

**I**N an Ejectione firme between John Wirral Plaintiff, and Henry Harpur Esquire, and Barbara his Wife Defendants, which began Trin. 11 Jac. Regis, Rot. 553. in the King's Bench. The Plaintiff declared, That whereas Thomas Seylyard Esquire, and Elizabeth his Wife, 24 Maii, Anno Regni Domini Jacobi nunc 11. apud Bredon in Com' Leicestr' by their Indenture, &c. shewed forth, demised to the said John, an House, thirty Acres of Land, ten Acres of Meadow, and twelve Acres of Pasture, with their Appurtenances in Workington in Parochia de Bredon in Com' praed', ac etiam unam capellam cum pertin' in Workington in Parochia de Bredon praedict', necnon omnes & omnimodas decimas quas-cunque annuatim provenientes in Workington & Willelson praedict' in Parochia de Bredon praedict' in Com' praedict' per nomina totius illius Mesuagii, cum omnibus domibus, &c. clausis, terris, pratis, pastur', communiis, & hereditamentis ill' pertinen' in campis seu hamlet' de Workington in Parochia de Bredon in com' praedict', ac etiam per nomina unius Capelle in Workington praed', ac etiam per nomina omnium & omnimodarum decimarum quarumcunque annuatim crescen' in hamlet' de Workington & Willelson in praedict' Parochia de Bredon, cum pertin', habend' & tenend' tenementa & decimas praedict' cum pertin', from the Feast of the Annunciation of our Lady, then last past, for seven Years; by Force whereof Idem Johannis Wirral in tenementa & decimas praedicta, 24 die Maii Anno 11. supradicto intravit, & fuit inde possess. quousque praed' Hen. & Barbara postea, sc. eodem 24 die Maii an. 11, supradicto apud

Moor 837. Raymond 248. 1 Rol. Rep. 65.

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*apud Bredon prædict' vi & armis in tenementa & decimas prædictum pertinen' super possessionem ipsius Johannis inde intraverunt,* and did eject him, &c. to his Damages of 40 Pound, &c. And upon *Not guilty* pleaded, the Jury gave a special Verdict to this Effect. *Henry Beaumont* Knight, was seised in Fee of the Manor of *Gracedieu* in the County of *Leicester*, and held it of the King by Knights Service *in capite* and was also seised in Fee of the Manor of *Normanton* in the County of *Derby*, and held that of the King by Knights Service *in capite*, and the first Day of *October Anno Regni Regis Jacobi nunc Angl 2.* by Indenture, bearing Date the same Day and Year, in Consideration of a Marriage to be solemnized between him and *Barbara Faunt*; and for the Advancement and Preferment in living of such Issue which he and the said *Barbara* should have, did Covenant and Grant with *Andrew Noel* and *Henry Hastings*, Knights, and their Heirs, That the said *Henry Beaumont* and his Heirs, would stand seised of the said Manors, to the Uses following, *viz.* Of the said Manor of *Gracedieu* to the Use of the said *Henry Beaumont*, and the Heirs Males of the Body of the said *Henry*, upon the Body of the said *Barbara* to be begotten; and afterwards to the Use of *John Beaumont*, his second Brother and the Heirs Males of his Body; and afterwards to the Use of *Francis Beaumont* his younger Brother, and the Heirs Males of his Body; and afterwards to the Use of the right Heirs of the said *Sir Henry*. And of the Manor of *Normanton* to the Use of the said *Henry* and *Barbara* for the Joynture of the said *Barbara*, and to the Heirs of the Body of the said *Henry*; and afterwards to the Use of the said *John Beaumont*, and to the Heirs Males of his Body, and afterwards to the Use of the said *Francis Beaumont*, and to the Heirs Males of his Body, and afterwards to the Use of the right Heirs of the said *Sir Henry*: And afterwards the said *Sir Henry* married the said *Barbara*. And the Jury further found, That one *Edward Sharpe* was seised in Fee of the Tenements and Tithes specified in the Declaration, in which, &c. and held them of our Lord the King, as of his Manor of *East-Greenwich* in Free-Socage by Fealty only; and 7 *Martii anno 3. Domini Regis nunc*, by his Indenture, bearing Date, the same Day and Year, and enrolled according to the Statute, in Consideration of 1220 *l.* bargained and sold to the said *Sir Henry Beaumont* and his Heirs, the said Tenements and Tithes, in which, &c. by Force whereof he enter'd, and was seised thereof in his Demesn as of Fee. And afterwards the said *Sir Henry*, 7 *Julii, anno 3.* made his last Will in Writing, and thereby devised that his Executors should sell the said Tenements and Tithes, in which, &c. and made his Sister *Eliz. John Towne*, and *Edward*

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*Edward Sharp*, his Executors. And the said *Sir Henry* so being seised of the said Manors, Tenements, and Tithes, as is aforesaid, 7 Julij anno 3. *Supradicto*, died thereof seised, having Issue on the Body of the said *Barbara*, one *Barbara* his Daughter and Heir. And that the said Manor of *Gracedieu* at the Time of the making of the said Indenture, and at the Time of the Death of the said *Sir Henry*, was of the yearly Value of 30 l. and that the Manor of *Normanton* was then of the yearly Value of eighteen Pound; and that the Tenements and Tithes, in which, &c. were then of the yearly Value of three Pound: And that the said Executors for Money, sold the Tenements and Tithes, in which, &c. to *Thomas Wroth*, Esquire, and *William Towse* Esquire, and their Heirs, who conveyed them to the said *Elizabeth*, one of the said Executors, and her Heirs, who married the said *Thomas Seylyard*, who made the Lease specified in the Declaration to the Plaintiff, *Prout*, &c. by Force whereof the said *John Wirral* entred into the said Tenements and Tithes, in which, &c. and was possessed thereof, till the Defendants *Vi & armis in Tenementa & decimas* did enter and eject the Plaintiff, and so ejected and put out of his Possession *extratenuer' & adhuc extratenent*: And if upon the whole Matter the Defendants were guilty, or not, the Jury prayed the Advice of the Court, &c. And after this Case had been argued in several Terms at the Bar, and this Term by the Justices at the Bench, It received the same Resolution which was in *Lovies Case*, which I have published in the tenth Part of my *Reports*, fol. 80, & 81. and therefore I will now make a more Summary Report of this Case.

In this Case it was first unanimously resolved, That if <sup>10 Co. 82. b.</sup> the King's Tenant by Knights Service *in Capite*, conveys his <sup>Co. Lit. 111. b.</sup> Land held *in Capite*, To one of his Sons in Fee, or to the Use of his Wife in Fee, &c. and afterwards purchases Land held in Soccage, That in this Case he may by his Will in Writing, devise all the Land in Soccage for the Reasons and Causes in the said *Lovie's Case*.

Secondly, That the Reversion of the Fee which the said <sup>10 Co. 80. b.</sup> *Sir Henry* had expectant upon the Estates in Tail, shall hin- <sup>Co. Lit. 111. b.</sup> der the Devise of the other Land for a third Part of the <sup>Moor 837.</sup> other Land held in Soccage; altho' upon the Creation of the Estate of the Manor of *Normanton*, to him and his Wife, and the Heirs of his Body; the King is to have a third Part in Ward during the Life of the Wife, by the Statute, for the same Estate, upon which the Reversion depends, and altho' the Reversion is Seck without Rent, or <sup>20 Co. 80. b.</sup> any Profit.

Thirdly,

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30 Co. 84. a.  
Co. Lit. 117. b.

Thirdly, That altho' the Reversion of the Fee continued in him, yet he might devise two Parts of the Land newly purchased; and if he had granted over the Reversion in Fee, he might have devised all the Land held in Soccage purchased after.

Fourthly, That altho' he had executed his Power for more than two Parts, to the Use of his Wife; yet for the Land in Soccage which he purchased after (if the Reversion had not continued in him) he might have devised the whole; notwithstanding the Execution of his Power before, and so far as the Reversion of the Fee continued, in the Case at Bar, the Devise was good for two Parts; and the same Reasons were given for all these Resolutions in this Case at Bar, which are reported in *Lovie's Case*,

Fifthly, It was objected, That nothing passed to *John* and *Francis* Brothers of the said *Sir Henry*, for two Reasons: 1. Because they were not within the Considerations expressed, *viz.* For the Advancement of the said *Barbara*, and of the Issues which he shall beget on the Body of the said *Barbara*; so that the Brothers are out of the Consideration; For (a) *expressum facit cessare tacitum*; and therefore (b) if I Covenant by Deed indented, that in Consideration of 100 l. paid me by my Son, I will stand seised to the Use of him and his Heirs; if the Deed be not enrolled according to the Statute, nothing passes, because the express valuable Consideration takes away the tacite and implied Consideration of Blood; and no other Consideration can be averr'd, than is contained in the Deed, because the Substance of the Agreement is by Assent of the Parties referred to the Deed. 2. It is not found *in facto*, that the said *John* and *Francis* were his Brothers, and so by the Covenant nothing vests in them in Remainder; and then when *Sir Henry* died without Issue Male, the Manor of *Gracedieu* descended to *Barbara* in Fee-simple; so that a full third Part, and more descended to her; wherefore the Devise shall be good for all the said Land and Tithes, in which, &c. held in Soccage; and so Judgment shall be given for the Pl. for the whole. But it was resolved, That the Uses were well raised to the Brothers in Remainder, and a Judgment was cited in this Court in Debt between *Elizabeth* (c) *Bedel* Pl. and *Michael Bedel* Def. which began *Hill. 1 Jac. Rot.* 375. and is in the 7th Part of my *Reports*, fol. 39. where on the Record the Case was such. *Robert Bedel* seised in Fee of a House, &c. in *Juer* and *Langley*, in the County of *Buckingham*, had Issue by *Eliz.* his Wife, 3 Sons, whereof *James* was the second, and the said *Michael* the Def. the third; by Deed indented tripartite between the said *Robert* and his Wife of the 1st Part, the said *James* his Son of the 2d Part, and the said *Mich.* his Son on the 3d Part, in Consideration of  
natural

(a) Co. Lit.  
183. b. Godb.  
449.  
Lach. 165. Ray-  
mond 46.  
5 Co. 97. a.  
Carter 146.  
7 Co. 39. b.  
(b) Carter 138,  
146. Cr. Eliz.  
394. 1 Ventris  
138. Palm. 214.  
215. 8 Co. 94. a.

(c) Jenk. Cent.  
289. Cro. Jac.  
168. 2 Roll. 782.  
785. Raymond  
50. 248. 8 Co.  
94. a. Raymond  
46. Cr. Jac. 624.  
625. 2 Inst. 172.  
1 Roll. Rep. 68.  
1 Jones 419.  
2 Jones 105.  
2 Ventris 318.  
March 50. 51.

natural Affection, and paternal Love which he had to the said James and Michael, and for their better Preferment and Advancement, the said Rob. covenanted with the said J. and Michael, That he and his Heirs would stand seised of the said House, &c. to the Use of himself for Life, and afterwards to the Use of the said Elizabeth his Wife for her Life; and afterwards of one Moyety to the Use of the said J. in Tail, and of the other Moyety to the Use of the said Mich. in Tail; and afterwards Robert died, and all this Matter was found by special Verdict; and the sole Question of that Case was, If any Use was raised to Eliz. his Wife? And the two Objections were moved against the Wife, which have been made against the Brothers in the Case at Bar.

And it was resolved, as to the first, That the Consideration that she was his Wife, was apparent in the Deed, and no other Consideration was expressed to raise an Use to her, but that she was his Wife, and therefore if the Case which has been put, should be admitted, where (a) the Father covenants by Deed indented with his Son, in Consideration of 100 l. that he will stand seised to the Use of him and his Heirs; that in that Case the Deed ought to be enrolled according to the Statute, or nothing shall pass: Yet it is not to be likened to the Case at Bar, because there is a valuable Consideration expressed in the Deed to be given by the Son; but so it is not in the Case at Bar, and a (b) Consideration which stands with the Deed, may be averr'd notwithstanding, it is not contained in the Deed, as it is adjudged in 3 & 4 Ph. & Ma. Dyer 146.

(c) Viller's Case, and so resolved in the First Part of my Reports, fo. 176. a. in Mildmay's Case. B. N. C. 182.

As to the second, is was resolved, That (d) it was not necessary to aver that she was his Wife, for that is apparent in the Deed, Et (c) manifesta probatione non indigent. Vide (f) 13 H. 4. 17. a. in Assise of Morddauncester. 46 Ed. 3. 33 H. 6. 32. Plo. Com. in Talbois Case, &c. That Things apparent need not be aver'd, and if in Truth she was not his Wife, (g) that shall come in of the other Part; and for these Reasons it was adjudged, That the Use was well raised to the said Wife: On which Judgment, a Writ of Error was brought, and in the Exchequer Chamber, Mich. 5. Jac. Regis, after divers Arguments heard at the Bar, the Judgment was affirmed for the Reasons and Causes aforesaid, una voce by all the Justices of the Common Pleas, and Barons of the Exchequer.

Sixthly, It was resolved, That for the Manor of Graccedieu, the Estate-tail vanished by the Death of Sir H. without Issue male; and therof. such Estate-tail which so vanished by his Death, is not any Cause to restrain the Devise for any Part, as oftentimes it has been resolved; but the Reversion in Fee in this Case, is the Cause to restrain the Devise for the 3d Part:

(a) 7 Co. 39. b.  
 1 Venris 138.  
 Cro. El. 394.  
 Antea 24. b.  
 Carter 138. 146.  
 Palm. 214. 215.  
 8 Co. 94. a.  
 Raym. 46. Jenk.  
 Centr. 289.  
 Winch. 59. 60.  
 (b) 7 Co. 39. a.  
 2 Inst. 672. 4 Co.  
 3. a. 9 Co. 26. a. b.  
 Owen 33. Hob.  
 124. 2 Rol. 790.  
 5 Co. 26. b.  
 2 Co. 76. a.  
 Palm. 217. 506.  
 2 Anderl. 469. 47.  
 (c) 2 Anderl. 47.  
 N. Benl. 39.  
 2 Rol. 781.  
 (d) 2 Inst. 672. 4 Co.  
 3. b. Owen 33.  
 Keymond 47.  
 Benl. in Kellw.  
 208. 7 Co. 39. a.  
 Carter 140.  
 Palm. 214. 215.  
 Raymond 50.  
 Moor 93. 507.  
 Palm. 506. 507.  
 2 Rol. Rep. 68.  
 (e) Hob. 124.  
 (f) Anderl. 79.  
 Moor 504.  
 7 Co. 39. a. b.  
 Cro. Car. 539.  
 2 lones 105.  
 Cro. Jac. 168.  
 1 Rol. Rep. 69.  
 (g) 7 Co. 39. a. b.  
 Br. Assise  
 60. Br. Mord-  
 dauncester 8.  
 7 Co. 39. b.  
 (h) Hob. 124.  
 218.



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So that it was resolved upon the whole Matter, That the Pl. should have Judgment for two Parts against the Defendants. But the Chief Justice well observing the Declaration, and the Visne, in the Conclusion of his Argument, moved these Exceptions: 1. That the *Ejectione firme* is brought *De (a) omnibus & omnimodis decimis in Workington, &c.* without saying, *garbarum sœni, lanae agnellorum*, or any Certainty of the Nature or Quality of the Tithes, whereof a certain Judgment may be given, or Execution by *Habere fucias possessionem* had, and that appears in the Assise brought *De quadam portione Decimarum, &c.* in 7 E. 6. Dyer 84. for altho' the Measure or certain Number of them shall not be expressed, for the Fruitfulness or Barrenness may encrease or diminish them; yet the several Kinds ought to be expressed. Also it may be, That all the Tithing consists *in modo' decimandi*, by Payment of a yearly Sum in Satisfaction of Tithes, whereof no *Ejectione firme* lies. And the Statute of 32 H. 8. c. 7. which gives the Action for Tithes, gives it *as they should or might do for Lands, &c.* but in an Action for Lands, the Pl. ought to shew the Quality or Nature of them, as Land, Meadow, Pasture, Wood, &c. *Pascha 5. Jac. Regis*, The Countess of Oxford brought a Writ of Dower to be endowed of Predial (b) Tithes, and counted of the Certainty of the Kinds, as of Garbs, &c. within such a Town, and in the same Case it was held, That the most equal Assignment is of the third Sheaf; for if the Garbs of the third Part of the Arable Land be assigned, it is in the Election of the Terre-Tenant, whether he will sow it or not. So *Mic. 3. & 4 Eliz.* reported by *Benlows* Serjeant of Law, in Dower of a (c) Mill in *Wadesmil* in the County of *Heriford*, the Assignment was of the third Part *Molendini, viz. De integro Molendino per quemlibet tertium mensem, &c.*

2. It is not formal to bring an *Ejectione firme de una (d) capella*, but it ought to be by the Name of an House.

3. The *Ventre fac'* was *de vicineto Parochia de Bredon*, which was ill awarded: For first, the Lease and the Ejectionment also are alledged to be made at *Bredon* which shall be intended to be a (e) Town, and the House and Lands are alledged to be in *Workington* (which also shall be taken for a Town) in the Parish of *Bredon*; so that now it appears to the Court, That there is a Town called *Bredon*, a Parish called *Bredon*, and *Workington* a Town in the Parish of *Bredon*, and the Tithes are alledged to be in *Workington* and *Willefdon* (which also shall be intended a Town) in *Parochia de Bredon*: So that the Visne ought not to be out of the Parish of *Bredon*, but out of *Bredon, Workington, and Willefdon*, for the Visne shall be always awarded out of the Place, which contains the most Certainty,

and

(a) 1 Rol. Rep. 68. Moor 827. Hardr. 59. Palm. 101. 2 Rol. Rep. 166. Doctrin placit. 85. Styl. 77. 101. 238. Cro. Car. 301. 1 Jones 321. 322. 11 Co. 55. a. 2 Inst. 641. Dyer 116. pl. 71. 16 H. 7. 3. a.

(b) Styles 77. 1 Rol. Rep. 68. Co. Lit. 32. a.

(c) N. Ben. 120. Co. Lit. 32. a.

(d) Doctrin. placit. 291. Styles 101.

(e) Moor 827. 1 Rol. Rep. 68. Co. Lit. 125. b. Noy 17. Cr. Car. 151. 6 H. 7. 3. b. 11 H. 7. 23. a. 6 Co. 14. b. Cro. Jac. 120. 263. 274. 676. Cr. Eliz. 117. 837.

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and altho' *Workington* and *Willesdon* are called Hamlets in the *pernomen*, yet the Court ought to adjudge upon that which is alledged by the Plaintiff in his Declaration. And the Chief Justice shewed the Reason that moved him to take these Exceptions, which was, That if they should give Judgment, it might be reversed by a Writ of Error for these Causes, which might be a Blemish in Time to come to their Resolution concerning the Matter in Law: Wherefore, by Consent of the whole Court, for the Cause aforesaid, no Judgment was entred. But it was said at the Bar, That the Court of Wards, where a Bill depended for this Matter (and by Order of which Court, the Matter in Law was to be adjudged by the Common Law) would take Order for the Possession accordingly.

Moor 847  
1 Roll. Rep. 68.

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# Trin. 12 Jacobi Regis.

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## HENRY PIGOT'S Case.

2 Bulstr. 246.  
Moor 835.  
1 Roll. Rep. 39.

**B**enedict Winchcombe Esq; brought an Action of Debt against Henry Pigot, which was entered Trin. 11 Jac. Regis Rot. 566. in Banco Regis, on a Bond made to the Plaintiff in 60 l. 2 Martii Anno 8 Jac. Regis. The Defendant, without demanding Oyer of the Bond or Condition, pleaded *Non est factum*. And the Jury gave a special Verdict to this Effect, That the Bond was made to the Plaintiff in the same Manner as he had declared, and found the Bond in these Words, *Noverint universi per presentes nos Georgium Watkins Generos. Henricum Pigot de Civitate Oxon' Draper, & Johannem Pyme de eadem Civitate Cordwayner teneri & firmiter obligari Benedicto Winchcombe armig' in 60 libris, &c.* And in Truth, the Plaintiff was Sheriff of the County of Oxford, and the Condition of the Bond was, That the said George Watkins should appear in the King's Bench *Mense Pascha* to answer to George Cottle in a Plea of Trespass; and that the said Bond was delivered by the said Henry Pigot as his Deed to the Use of the Plaintiff; and that after the delivery of the said Deed *hæc verba sequentia, videlicet (vicecom' Comitatus Oxon') inserti & interlineati fuerunt in eodem Scripto post prædicta verba (Benedicto Winchcombe Armig') & ante prædicta verba (in sexaginta libris) superius in Obligatione prædicta mentionat, sive notitia, Anglice the Privity,*  
scu

1 Roll. Rep. 35.  
2 Bulstr. 246.  
Moor 835.

*seu mandat' predicti Benedicti, & utrum super tota materia, &c. videbitur Justic' & Cur' hic qd' Scriptum prad' sit factum prad' Henrici necne iidem Jur' penitus ignorant, & petunt advisamentum Cur' hic, &c.*

And in this Case these Points were resolv'd: 1. (a) When a lawful Deed is rased, whereby it becomes void, the Obligor may plead, *Non est Factum*, and give the Matter in Evidence, because at the Time of the Plea pleaded, it is not his Deed.

Secondly, It was resolv'd, That (b) when any Deed is altered in a Point material, by the Plaintiff himself, or by any Stranger, without the Privity of the Obligee, be it by Interliation, Addition, Rasing, or by the drawing of a Pen thro' a Line, or thro' the midst of any material Word, that the Deed thereby becomes void: (c) As if a Bond is to be made to the Sheriff for Appearance, &c. and in the Bond the Sheriff's Name is omitted, and after the delivery thereof, his Name is interlin'd, either by the Obligee or a Stranger, without his Privity, the Deed is void: So if one makes a Bond of 10 l. and after the Sealing of it another 10 l. is added, which makes it 20 l. the Deed is void: So if a Bond is rased, by which the first Word can't be seen, or if it is drawn with a Pen and Ink thro' the Word, altho' the first Word is legible, yet the Deed is void, and shall never make an Issue, whether it was in any of these Cases altered by the Obligee himself, or by a Stranger without his Privity. (d) So if the Obligee himself alters the Deed by any of the said Ways, altho' it is in Words not Material, yet the Deed is void: But (e) if a Stranger, without his Privity, alters the Deed by any of the said Ways in any Point not Material, it shall not avoid the Deed. *Vide (f) Dyer 9 Eliz. fol. 261. b.* And therefore in the principal Case, the Addition made by a Stranger, without the Privity of the Plaintiff, being in a Point not material for any Thing that appears to the Court; for this Cause, Judgment was given for the Plaintiff; and so you will the better understand the Book in 14 H. 8. fo. 25. b. And in this Case it was moved at the Bar, when a Deed shall be good in Part, and void in Part: As to that, I conceive, there is a Difference when a Deed is void *ab initio*, and when it becomes void by Misfeasance *ex post facto*. Also there is a Difference when the Deed, which is void in Part *ab initio*, doth consist upon the Entierty, and when upon divers several Clauses; and in these also there is a Difference, when the several Clauses are absolute and distinct, and when they are several, and yet the one has dependency upon the other.

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Br. non est factum, 11a.

2 Roll. 28.

2 Co. 3. b. & 9. b.

Br. non est factum, 8.

2 Co. 9. 2. b.

30 E. 3. 31. b.  
32. a. 2 Roll. 28.

2 Roll. 28. 30 E.  
3. 31. b. 32. a.

As to the first, it is agreed in 14 H. 8. 25, 26. &c. That if some of the Covenants of an Indenture, or of the Conditions endorsed upon a Bond, are against Law, and some good and lawful; that in this Case, the Covenants or Conditions which are against Law are void *ab initio*, and the others stand good. So if three distinct Bonds are wrote upon one piece of Parchment, and one of them only is read to the Obligor, and he being a Man not letter'd, Seals and Delivers this Deed, it is good for that which was read, and *ab initio* void for the others: and this Case is agreed by *Brudnel* and *Pollard*, in 14 H. 8. 26. a. In 9 H. 5. fol. 15. a. One brought a Writ of Debt of 20 l. against another, and declared upon a Bond of the same Sum; the Defendant pleaded, That he was a Layman, and could not read, and that he acknowledged to be bound to the Plaintiff by the same Deed in 20 s. which he has paid, and shewed an Acquittance thereof; and as to the Remnant of the Sum in the said Bond, it was not his Deed; and it was held a good Plea: Which Case being of one entire Sum proves without Question, That if there are two absolute and distinct Clauses in a Deed, and the one is read to the Party not lettered, and the other not, that the Deed is good for the Clause which was read, and *ab initio* void for the Residue: And altho' the Deed consisting upon an entire Sum was void for the whole, as it is agreed in 14 H. 8. & 30 E. 3. 31. b. yet it was wisely done by the Defendant's Counsel in 9 H. 15. a. to plead the Truth of his Client's Case, and not to leave the Matter upon any Question in Law, when the Truth of the Matter would take away all Questions. In 30 E. 3. *casu ultimo*, in Assise before *Stouffe* and others in the Country, the Defendant pleaded a Feoffment from the Plaintiff to him by Deed of the Land in Bar, to have and to hold to him and his Heirs, comprehending a Letter of Attorney to deliver Seisin, &c. And in Truth, the Plaintiff was a Layman not lettered, and that the Deed with the Warrant of Attorney was read to him, according to the Form of an Estate-Tail, and that upon the same Intent, he sealed and delivered the Deed, with the Letter of Attorney in it, to deliver Seisin: In that Case, altho' the Clause of the Feoffment in Fee, and the Warrant of Attorney, are two several Clauses, yet forasmuch as the Warrant of Attorney depended upon the Feoffment, and had Relation to an Estate in Fee, altho' that was well and truly read, the whole was adjudged to be void. And there *Thorpe* Justice said, That every Deed ought to have Writing, Sealing and Delivery, and when any Thing shall pass from them who had not Understanding but by hearing only, it ought to be read also: And it is true,

true, that he who is not lettered, is reputed in Law as he who can't see, but hear only, and all his Understanding is by his hearing. And so a Man who is lettered and can't see, is, as to this Purpose, taken int Law as a Man not lettered: And therefore if a Man is lettered, and is blind, if the Deed is read to him in other Manner, he shall avoid the Deed, because all his Understanding in such Case is by his hearing, as it was resolved in the Case of *John Shuter*, of the County of *Wilts*, in the Star-Chamber, *Mich. 9 Jac. Regis*, who was a Man of 115 Years at the Time of his Death. In 47 E. 3. 3. a. *John Pinschon* brought an Action of Debt against *Thomas Gervcs* and others, Executors of *John Northgate*, upon a Bond made by the Testator of 100 l. the Defendants pleaded a Release from the Plaintiff of all manner of Actions; and also the Plaintiff, by that Deed, had received 20 l. of the Testator, &c. and the Deed was read, which expressed, that he had received 20 l. in solutione de 100 l. & etiam remis. omnimodas actiones, &c. To which the Plaintiff said, That the Testator was indebted to him in 20 l. for other Contracts; and it was agreed betwixt them, that the Plaintiff should release that 20 l. and because the Plaintiff was a Layman, and knew not what was written in the Deed, and what not, by Agreement between them, the Deed was delivered to the said *Thomas Gervcs*, now one of the Executors to keep, upon such Condition, That if the Deed mentioned only the 20 l. in which he was bound to him by Reason of the Contracts, that then the Deed should be delivered to *John Northgate*; and if not, that it should be delivered to the Plaintiff: And there *Fischden* Chief Justice said, If what you say is true, you may safely deny the Deed; for as to Parcel which was made according to the Agreement, the Deed is good; and as to the other Parcel, that a Thing is Written, of which you know nothing: So that as to Parcel you may acknowledge a Deed of Parcel, and as to Parcel which was not read to him, deny the Deed. And the same is in a Manner affirmed by *Perjay*, but he said, it wou'd be absurd to Lay-people to plead *Non est Factum* as to Parcel: But afterwards it seemed, That the said Bailment to *Thomas Gervcs*, was not any Delivery of the Deed, unless the Conditions were performed: Wherefore the Defendants shewed, That the Conditions were performed, and that the Deed, by the Plaintiff's Assent, was delivered to the Testator; upon which Issue was taken, viz. That the Deed was not delivered to him, in his Life Time, with the Plaintiff's Assent, which Case is cited in 14 H. 8. 26. a. to be adjudged, but is there ill reported by the Reporter.

Hob. 226.

2 Roll. 28. 18 E.  
4. 28. a. 12 Co.  
89. 15 E. 4. 18. b.  
14 H. 8. 26. a.  
9 H. 6. 59. a. b.  
Br. Estoppel 6.  
9 H. 6. 5. b.  
Fitz. Estoppel 23.  
2 Roll. 28.  
44 E. 3. 23. a.  
44 Ass. 30. 14 H.  
8. 26. a. 1 H. 7.  
15. b. Plowd.  
66. b. Br. Non  
est Factum. 10.  
2 Co. 9. b.

HENRY PIGOT's Case. PART XI.

(a) 2 Roll. 30.

But (a) if a Deed contains divers distinct and absolute Covenants, if any of the Covenants are altered by Addition, Interlineation, or Rasure, this Misfezance *Ex post facto*, avoids the whole Deed, as it is held in 14 H. 8. 25, 26. For altho' they are several Covenants, yet it is but one Deed. (b)

(b) 2 Roll. 30.

Br. Obligation

43. Firz. Bar. 40.

(c) 1 Roll. R. p.

40. Doctrin. pla-

cit. 259. 262.

2 Bulfr. 248.

Mar. 125. 2 Show.

28. 2 Lev. 220.

3 H. 7. fol. 5. a. If two are bound in a Bond, and afterwards the Seal of one of them is broken off, this Misfezance *Ex post facto*, avoids the whole Deed against both. *Vide* the Case of (c) *Matthewson Mich. 39. & 40 Eliz. In the Fifth Part of my Reports, fol. 23. a.*

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Trin.

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# Trin. 12 Jacobi Regis.

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## ALEXANDER POWLTER's Case.

ONE *Alexander Powlter*, of *New-Market* in the County of *Cambridge*, of extream Malice and ill Will, *Felleo animo* did burn an House in the said Town, upon which the greatest Part of the said Town was burnt and consumed: For which Offence, at the Assises at *Cambridge* in Autumn last past, he was indicted and convicted by Verdict, and prayed his Clergy; and if he should have his Clergy, or not, was the Question? Upon which the Justices of Assise before whom he was arraigned, wou'd take Advice, and now this Term, all the Judges of *England* met together for the Resolution of this Point; and upon the Consideration of divers intricate, ill-compiled and composed Statutes, they were in Doubt whether he should have his Clergy, or not: But it was agreed by them all, that it was (a) Felony by the Common Law, as appears by *Britton*, fol. 16. & *Bracton*, fol. 146. b. & 11 H. 7. fol. 1. b. and it was accounted in Law an heinous and exorbitant Felony; for by the Statute of (b) *Westmynst. 1. cap. 15.* it is declared, That such as are taken for House-burning Feloniously done, or for counterfeiting the King's Seal, &c. or for Treason touching the King himself, shall in no ways be replevisable. By which it appears, First, That it was Felony at the Common Law; and secondly, That it was so Heinous, that he was not Bailable no more than for High Treason.

But



# ALEXAND. POWLTER's Case. PART. XI.

But yet it was resolved, That for the great Favour and Respect which the Law doth attribute to Men of Holy Church, for this Felony at Common Law, the Offender (who *(a)* was not so disabled, that he could not be enabled by any Dispensation which might be made to be a Member of Holy Church, as if he was *(b)* blind, &c. or in respect of Sex, *f.* a Woman, as appears in 22 *E. 3. Corone* 461.) should have the Privilege of his Clergy by the Common Law; for the Common Law doth not deny *beneficium clericatus*, the Benefit of his Clergy, but in certain Cases: As if a Man be convicted of any Heresy, he shall not have his Clergy for any Felony, &c. the same Law of *(c)* Saracen, Jew, or other Infidel, *(d)* *Gravius esse enim divinam quam temporalem ledere Majestatem*; the same Law *(e)* in Case of High Treason against the King; and of Petit Treason also, before the Statute of 25 *E. 3. 4. Vid.* *(f)* 19 *H. 6. 47. b.* for High Treason accordingly: But a Man excommunicated by Holy Church for any Ecclesiastical Cause, or outlawed by the Common Law for any Felony, for which he might have his Clergy, shall have his Clergy. Also in Case of Sacrilege a Man shall be ousted of his Clergy, as appears in *(g)* 20 *E. 2. Tit. Corone* 193. *(h)* 12 *Ass. pl.* 39. 12 *E. 3. Tit. Corone* 120. 22 *E. 3. ibid* 357. *(i)* 26 *Ass.* 19. *(k)* 27 *Ass.* 42. at the Common Law, *(l)* *Insidiatores vitium, & depulatores vitium*, had not their Clergy, as appear by the Statute of 4 *H. 4. 2.* And before the Statute of *(m)* *Artonii Cleri, cap.* 15. he who *(n)* confessed the Felony, could not have the Benefit of the Clergy, because he could not make his Purgation; and altho' the Statute speaks only in Case of Abjuration, and of an Approver, yet the Judges *in favorem Ecclesie* did extend it to all other Confessions, upon the Arraignment of the Offender, 10 *E. 3. Corone* 147. 12 *E. 3. Corone* 147. *(o)* 27 *H. 6. 7. b.* *(p)* 34 *H. 6. 49. b.* *(q)* 7 *E. 4. 29. a.* *(r)* 8 *E. 4. 26. (s)* 9 *E. 4. 28. a.* *(t)* 13 *E. 4. 3. b.* 22 *E. 4. Corone* 44. *(u)* 15 *H. 7. 9. a.* And Clergy, not only at the Suit of the King upon Indictment, but upon Approvement, and at the Suit of the Party in Appeal, *(w)* 40 *E. 3. 42. a.* *(x)* 40 *Ass.* 17. *(y)* 11 *H. 4. 93. a.* And generally in all Cases, when the Life, or any Member of the Offender, as cutting off his Hand; &c. is not in jeopardy, the Offender shall have his Clergy, as in Case of Petit Larceny, *Stanford* 124. *a.* So that it was resolved, That at the Common Law, for this Felony of burning of Houses, the Offender shall have the Privilege of his Clergy.

*(z)* Then it is to be consider'd, Whether this Privilege be taken away by any Statute: And therefore it must be known, That by the Statute of 23 *Hen. 8. 1.* it is enacted, That no Person or Persons, which shall be found guilty of any manner of Petit Treason, or for wilfull Murder of Malice pre-

*(a)* Stamf. Pl. Cr. 123. b.

*(b)* Hales's Pl. Cr. 229. 3 Inst. 114. Stamf. Pl. Cr. 123. b.

*(c)* Hales's Pl. Cr. 229.

*(d)* Wingar Max. fol. 8.

*(e)* Hales's Pl. Cr. 230.

*(f)* Stamf. Pl.

Cr. 3. a. 44. a. 124. a. Br. Clergy 6.

*(g)* Stamf. Pl. Cr. 123. b.

26 Ass. 27. Br. Clergy 12. Cont.

*(h)* Br. Clergy 10.

*(i)* Br. Cler. 11. Br. Corone 99.

*(k)* Br. Clergy 13.

*(l)* Stamf. Pl. Cr. 124. a.

3 Inst. 5, 204.

*(m)* 2 Inst. 633. 634, 635, &c.

*(n)* Poitea 30. a.

*(o)* Fitz. Corone 16. Br. Corone 4.

*(p)* Fitz. Corone 20. Br. Clergy 17.

*(q)* Br. Clergy 17. Br. Ordina- ry 16. Fitz. Fine 240.

*(r)* That Year has but 25. folia.

*(s)* Fitz. Corone 32. Br. Corone 35.

51. Fitz. Chart. de 32. Br. Chart. de Pardon. 23.

*(t)* Fitz. Corone 38. Br. Corone 17.

*(u)* Br. Corone 53.

Br. Ordinary 11. Br. Charter de 21.

*(v)* Fitz. Corone 91. Br. Clergy 23.

*(w)* Br. Clergy 14. Br. Certificate de Evesque, 18.

*(x)* Fitz. Corone 143. Br. Corone 31. Br. Clergy 5.

*(y)* Hales's Pl. Cr. 229. Stamf. Pl. Cr. 124. b.

penesed, or for robbing of any Churches, Chapels, or other Holy Places; or for robbing of any Person or Persons in their Dwelling-House, or Dwelling-Place, &c. or for robbing of any Person or Persons in or near the High-way; wilfull burning of any Dwelling-Houses, or Barns whercin any Corn is; or the Procurers or Abettors of the same, be admitted to the Benefit of his or their Clergy (such as be within Holy Orders, that is to say, of the Orders of Sub-Deacon, or above, only excepted.) So that this Statute ousts the Principal Offenders aforesaid, of the Privilege of his Clergy, and their Accessories before. And it is to be observed, that the Statute doth not say, *That no Person or Persons that shall, upon his or their Arraignment, plead not guilty, and shall be found guilty; for then that must of necessity be taken for found guilty by Verdict; But the Words are, That no Person that shall be found guilty of petit Treason, &c. and that may extend as well to confession of Record (for the Court finds him guilty upon his own Confession before them) as to finding by Verdict of Twelve Men, when the Offender denies the Fact, and pleads not guilty; and the Case of Confession is the stronger Case; for altho' he is found guilty by Verdict, yet he may be Innocent, and therefore he might have his Clergy at Common Law, and make his Purgation; but if he has confessed the Offence upon Record, he shall* Antea 29. b.

not have his Clergy by the Common Law, because he can't make Purgation when the Court finds his Confession on Record; for in intendment of Law he can't (against his express and voluntary Confession in Court) be Innocent: *Confessus in judicio pro judicato habetur, & quodammodo sua sententia damnatur.* And therewith agrees a Proviso in the said Act of 23 H. 8. which has made him who confesses the Felony, in equipage with him who is adjudged for Felony, the Words of which are, *Provided, That this Act extend not to give any Benefit to any such Persons, which after their Confession, or Judgment given against them, of or for Felony, &c.* Vide 25 E. 3. 42. b. & Stamford. 122. c. Attainder by Confession is the strongest Attainder that can be, for the vehement Presumption that the Law has of the Truth, for it would be absurd to say, that he has not done such a Felony, when the Party himself has confessed it, to the Destruction (a) of him and all his Offspring. And where the Statute of 8 H. 6. enacts, That if the Party grieved recovers by Assise, or by Action of Trespas, and it is found by Verdict, or in other Manner, in due Form of Law, That the Defendant entred with Force, &c. that the Plaintiff shall recover treble Damages, in such Case, if the Defendant confesses the Action, or makes Default, or *Nihil dicit*, or pleads an insufficient Plea, and upon Demurrer Judgment is given against him, in all these Cases it is a finding within the Statute; for there is one finding by the Jury, and another by the Judges; and when the

Stamf. Pl. Cas.  
122. b.

(a) Yet such a  
Case happen'd,  
28 E. 2. Fitz. CO-  
rone 425.

Postea 60. a. b.

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the Defendant confesses it, &c. the Judges find sufficient Matter before them to give Judgment: *Vide* for this, Serjeant *Bendlow's* Reports, that it was so taken in 6 *H. 8.* and in 4 & 5 *Phil. & Mary*, in a Writ of Error; and so I heard the Lord *Dyer* vouch a Judgment accordingly, in divers of the said Cases, upon the Statute of 8 *H. 6. c. 9.* And therefore the Opinion of *Stamford*, fol. 125. That in Case of Confession, the Offenders in these great and heinous Offences, shall have their Clergy, is not taken for Law; and the constant and continual Experience of the Judges in their Circuits has been to the contrary. Also this Act of 23 *H. 8. c. 1.* extends as well to Appeals and Approvements, as to Indictments: But yet in this Statute there were found divers great Defects; for the said Offenders, and their Accessories before, might by an easy Means and Equivocation have had their Clergy, notwithstanding this Statute: For if the Offender had upon his Arraignment stood Mute, or would not directly Answer (which is all one) or would have challenged Peremptorily above the Number of Twenty, he should have the Benefit of the Clergy, notwithstanding this Statute; for in these Cases they are not found guilty of the Felony, as the Statute speaks, but shall have Judgment *Fort* and *Dure* for their Contumacy, because they will not answer according to Law, nor put themselves upon their Country: Also if the Offender had not appeared, but had been outlawed for any of these Offences, yet notwithstanding this Statute, he should have his Clergy; for he was not found guilty of the Felony, but outlawed for his Default. Also altho' the Offender had committed Burglary, yet if it was without Robbery, he should have his Clergy notwithstanding this Statute; and so should the Accessories as well before as after: And so as to oust the Accessories before of their Clergy in all the said Offences, the Words are (*be found guilty*) so that the same Defects are also in this Clause as in the former.

It was afterwards ordain'd by the Statute of 25 *H. 8. cap. 3.* which recites the Act of 23 *H. 8.* and further enacted, *That if in those Cases the Person arraigned stand Mute, or will not directly Answer, or challenge above the Number of Twenty, shall lose the Benefit of his Clergy in like Manner and Form as if he had directly pleaded, &c. and thereupon had been found guilty according to the Laws of the Land.* By which Words, the Intention of the Makers of the Act appears, That he who is found guilty of any of the said Offences (which extends as well to Confession as to Verdict) shall lose his Clergy, and therefore altho' the Act of 23 *H. 8. cap. 1.* is not revived, yet there are sufficient Words in the Act of 25 *H. 8. c. 3.* to oust him who is found guilty, of his Clergy: And this also appears was the Intention of the Makers of the Act of 5 & 6 *E. 6.* for if the Act of 25 *H. 8.* had not extended to him who is found guilty by Verdict or Confession, they would not have revived it to oust

Benl. in Kelw.  
207. 1 Anderf.  
25. pl. 57. 2 Anderf.  
derf. 150. pl. 82.  
Dyer 214. pl. 45.  
N. Bendl. 11.  
pl. 6. Benl. in  
Ath. pl. 1. Po-  
sta 60. 2.

Stamf. Pl. Cr.  
124 b.

the Offender of the Privilege of his Clergy only in Case when he stood Mute, or would not Answer, or challenge above the Number of Twenty; and not where he is found guilty by Verdict, or Confession. Also the Words of the Act of 5 & 6 E. 6. are, *That the said Act of 25 H. 8. shall remain and be in full Strength and Vertue, in such Manner and Form as it did before the making of the Act of 1 E. 6. and before the same Act, without Question, he who was found guilty by Verdict, or Confession, was ousted of his Clergy.* But this Act of 25 H. 8. had not, by any Words, in any Case taken away Clergy from the Accessory before, which was a great Defect, for if he was found guilty, according to 23 H. 8. as well the Accessory before, as the Principal before, was ousted of his Clergy, but if he stood Mute, or answered not directly, or challenged above Twenty, in which Cases the Principal was ousted of his Clergy by 25 H. 8. yet in the same Cases the Accessory before was not ousted of his Clergy: And this Act of 25 H. 8. doth not extend to Appeals or Approvements, but only to Indictments; for the Words are, *If any Person be indicted, &c.* It was enacted by the same Statute, That if any be indicted for Felony for stealing any Goods in any County, and thereupon arraigned, be found guilty, or upon Malice stand Mute, or challenge peremptorily above the Number of Twenty, or will not directly answer to the Law; they shall lose the Benefit of their Clergy, in the same Manner and Form as they should, if they had been indicted, arraigned, and found guilty in the same County where the Robbery or Burglary was done or commit. *If it shall appear to the Justices, before whom any such Felons or Robbers be arraigned, by Evidence given before them, or by Examination, that the same Felonies, whereupon they be so arraigned, had been such Robberies or Burglaries, &c. Wherefore by the said Statute they had lost the Benefit of their Clergy, if they had been found guilty thereof in the same Shire.* And there is also Defect in this Branch; for it doth not extend to the Case, when the Offenders for any of the said Offences are outlawed, &c. also it doth not extend to Accessories before in such Cases: And it is to be known, That when the Offender confesses the Indictment, or stands Mute, or challenges above the Number of Twenty, altho' no Evidence can be given against him, yet the Words of the Stat. are (or by Examination) which Words have relation when the Offender doth confess the Offence, or stand Mute, or challenges above the Number of 20. Then was the Stat. of 1 E. 6. 12. by which it is enacted, *That no Person that shall be in due Form of Law, attainted or convicted of Murder of Malice prepensed, Poysoning of Malice prepensed, breaking*

; Inst. 114.

; Inst. 114, 115.

; Inst. 114.

Dalt. Inst. 527  
Hales's Pl. Cr.  
229. Stamford Pl.  
Cr. 125. a.

ing

## ALEXAND. POWLTER'S Case. PART XI.

ing of any House by Day or Night, any Person being then in the same House and put in fear or dread; or for robbing of any Person in or near the Highway; or for felonious stealing of Horses, Geldings or Mares; or for felonious taking of any Goods out of any Church, &c. or being thereof indicted or appealed, and thereupon found guilty by Verdict of Twelve Men, or shall Confess the same upon his or their Arraignment, or will not answer directly, or stand Mute, shall not be admitted to have the Benefit of Clergy, or Sanctuary. (a) And that in all other Cases of Felony, other than such as are beforementioned; all Persons that shall be arraigned and found Guilty, or shall Confess the same, or stand Mute in Form aforesaid, or will not directly Answer, shall have the Privilege of Clergy, or Sanctuary, as they might have had before the first Year of King Henry 8. And this Act of 1 E. 6. has made divers great Alterations: For 1. By this (b) general Clause, Clergy was restored to him who offended in burning of Houses, and to his Accessories before. 2. (c) All Accessories before, in Case of Petit Treason, Murder, Burglary, or other Offences mentioned in the Act of 23 H. 8. were restored to their Clergy by the said general Clause; and therefore they err who hold, That the Accessory to a Burglary, should be ousted of his Clergy, for at that Time, as well every Accessory in Burglary, as well before as after, should have his Clergy; and that appears by the Judgment of the whole Parliament of 2 & 3 Phil. & Mar. by which it is enacted, That the Benefit of Clergy should be taken from *Benedict Smith*, &c. for the Murder of *Rufford*, if the said *Benedict* should be found Guilty, as Accessory to the Murder, &c. *Nota*, the said Murder was so barbarous and so heinous, that Clergy was taken from him, and others, being but Accessories before, after the Offence committed. *Vide* 3 & 4 Phil. & Mar. *Dyer* 133. pl. 4. where mention is made that he was ousted of his Clergy by the same Act of 2 & 3 Phil. & Mar. which proves, That if the same Act had not been made, he might have his Clergy. 3. By this general Clause, Clergy was restored to heinous Offenders in Piracy upon the Seas, which was taken away by the Statute of 28 Hen. 8. cap. 15. and in divers other Cases. 4. The Words concerning Attainder of breaking of Houses only, would be repugnant and very absurd, unless they are supplied by a reasonable Intendment, and good Construction: For as *Stamford* 126. a. well observes, If any break any House by Night, without Intent to commit Felony, it is not Burglary nor Felony (and therefore these Words, with felonious Intent, are wanting) also if he breaks an House in the Day, although he has a felonious Intent, if

(a) Fitz. 2 Inst. 89. a. Stamford Pl. Cr. 125. a.

(b) Stamford Pl. Cr. 125. a.

(c) Stamford Pl. Cr. 125. b.

Hales's Pl. Cr. 233. 4.

2 & 3 P. & M. c. 17. 4 & 5 P. & M. c. 4.

*Dyer* 133. pl. 4. Bcnl. 3.

Postea 126. b. Stamford Pl. Cr. 126. a.

if he carry's away nothing it is not Felony; and therefore in that Case these Words, and steal Goods Feloniously, are wanting, and yet *Stamford* holds, That these general and in certain Words ought to be supplied with an *(a)* Intendment, *viz.* Where he is attainted and convicted of breaking the House in the Night *(b)* Burglariter, or of breaking the House in the Day, and stealing the Goods there within; but as to the Case of Burglary, this Act has made an alteration more strict than 23 *H. 8.* had, for this Act takes away Clergy in Case of Burglary, without any stealing of Goods. 5. This Act of 1 *E. 6.* adds a Thing not Material, and omits a Thing much Material, which was comprised in the Acts of 23 & 25 *H. 8.* for it takes away Clergy from him who poysons another of Malice prepense, which without Question is wilful Murder; and for that the Offender was ousted of his Clergy by the Acts of 23 & 25 *H. 8.* and it omits the heinous Offence of burning Houses, and yet takes away Clergy from him who commits Burglary, altho' he impairs the House little or nothing, and *implicate* allows Clergy to him who burns the whole House; and not only one House, but the greater Part of a Town, as it was in the Case now in Question. 6. There is a great Defect in this Act in the Clause of ousting Offenders of their Clergy; for it doth not extend where the Offender challenges above the Number of Twenty, which was included in the Act of 25 *H. 8.* But that is remedied by the reviving of the Act of 25 *H. 8.* by the Statute of 5 & 6 *E. 6.* as shall herein after appear. 7. There is a great Repugnancy in the said general Clause; for notwithstanding that, If any Offender who is to be restored to the Benefit of his Clergy, whereof he was ousted by any former Statute, challenges above the Number of Twenty, or if he is outlawed for the same Felony, he shall not be restored to his Clergy; for this Clause doth not extend but where the Offender is found guilty by Verdict or Confession, or stands Mute, or will not directly Answer. 8. He who commits *(c)* Robbery or Burglary in one County, and carries the Goods stoln into another County, &c. who was ousted of his Clergy by 25 *H. 8.* was restored to his Clergy by these general Words. 9. This Act extends to all Persons, *viz.* as well to those who are within Holy Orders, who were excepted out of 23 *H. 8.* as to other Lay-people. 10. This Act of 1 *E. 6.* in other Points has supplied some of the Defects which were in the former Statutes, concerning the Offences mentioned in the same Act; for 1. The other Statutes did not extend, as appears before, where the Offender was outlawed for any of the Offences mentioned in them;

\* The Original is destroyed  
(a) *Stamf. Pl. Cr. 126. b. 126. a.*

(b) 4 Co. 39. b. Doctrin. placit. 84. Cr. El. 920. 5 Co. 121. a. 3 Inst. 63. *Stamf. Pl. Cr. 126. a.*

(c) *Stamf. Pl. Cr. 126. a.*

(d) *Stamf. Pl. Cr. 126. a.*

(e) *Stamf. Pl. Cr. 126. a.*

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Paffes 64. a.  
F. N. B. 73.  
Stamf. Pl. Cr.  
126. b. 126. a.

Stamf. Pl. Cr.  
126. a.

them; but this Act extends to Men Outlawed, Attainted by Battel, Abjured, Attainted by Parliament; for the Words are, *If any hereafter shall in due Form of Law be attainted*, which Words extend to every Manner of Attainder. 2. This Act extends by exprefs Words to the Cafe of Confession; for the next Words of this Act are, *or Convict*, and that is by Verdict or Confession; So the Clause for ousting of Clergy, is better penned as to these Points, than the general Clause for Restitution of Clergy, as appears before. And it is to be observ'd, That this Act of 1 E. 6. extends as well to Appeals and Approvements, as to Indictments. And afterwards the Statute of 5 & 6 E. 6. cap. 10. was made, the Title of which was, *That such as rob in one Shire, and fly into another shall not have the Benefit of Clergy*. This Act first recites the said Act of 25 H. 8. which recites the other Act of 23 H. 8. and in which, Mention is made of burning of Houses, and further, the Addition which the Act of 25 H. 8. makes, and also the Branch concerning the stealing of Goods in one County, and carrying the Theft into another County: And the said Act of 5 & 6 E. 6. recites also the Purview of the said Act of 1 E. 6. *de Verbo in Verbum*, (in which the Omission of burning of Houses appears) and also the said general and beneficial Branch for Clergy of the Act of 1 E. 6. and then after the Recital of these three Statutes, the Words of the Act of 5 & 6 E. 6. are, *By Reason whereof divers and many Persons, since the said first Year, have committed such Robberies and Burglaries, and after have been taken with the Manner in another County, and there indicted, arraigned, and found guilty, have had and enjoyed their Clergy; which they could not have had, if the said Statute of 25 H. 8. had stood in Force; For Redress whereof, be it enacted, That the said Act made in the said Five and twentieth Year, touching putting of such Offenders from their Clergy; and every Article, Clause, and Sentence contained in the same, touching Clergy, shall from henceforth, touching such Offences from henceforth to be committed and done, stand, remain, and be in full Strength and Virtue, in such Manner and Form, as it did before the making of the said Act of 1 E. 6. any Clause, Article, or Sentence comprised in the said Act, made in the said first Year, to the contrary notwithstanding*. And the whole Scruple of this Case doth consist upon these Words of the Body of the Act of 5 & 6 E. 6. and of a *Quare* which Stanford makes, lib. 2. cap. 43. fol. 128. a. That the Act of 25 H. 8. is not revived in all, but only in that Part which concerns the stealing

of Goods in one County, and the carrying of them afterwards into another, by Reason of these Words (*such Offenders, &c. and such Offences, &c.*) which have Relation only to that Offender, which is expressed before in the same Act: Hereunto others added 2 other Objections, 1. That the Title or Style of this Act is particular, *viz. That such as rob in one County, and fly into another, shall not have Benefit of Clergy*; whereby the Intent of the Makers of the Act appears to what Thing the said Act shall extend, and this the Case of *Stradling and Morgan, Flo. Com. 203. b.* proves, where the particular Stile of the Act of 7 E. 6. concerning the Revenues of the King, limits and qualifies the general Words of the Body of the Act, *viz. (Any Receiver)* to extend only to the King's Receivers, according to the Title of the Act. Another Objection was made by some, That admitting the said Act of 5 & 6 E. 6. has revived the whole Act of 25 H. 8. yet forasmuch as the Act of 23 H. 8. was not revived, the said *Alexander Powlter* in the Case now in Question, shall have his Clergy, For as it has been said, the Act of 23 H. 8. extends only when the Offender is found guilty (which is our Case) and the Act of 25 H. 8. recites the said Act of 23 H. 8. and makes Addition when the Offender stands mute, or will not answer, or challenges above the Number of Twenty, so that the Act of 25 H. 8. extends not to the Case where the Offender is found guilty by Verdict or Confession, because the Act of 23 H. 8. has provided for that, and in as much as the general Words of the said Act of 1 E. 6. have taken away the Force (but in one special Case as aforesaid) of both the Statutes of 23 H. 8. and 25 H. 8. and the Act of 5 & 6 E. 6. has revived only the Act of 25 H. 8. for this Reason in the Case now in Question, the Benefit of Clergy is not taken away. Against which it was argued by other Justices, ; First, that the Statute of 5 & 6 E. 6. has revived the whole Act of 25 H. 8. concerning Clergy. 2dly, that the Act of 25 H. 8. has taken away the Benefit of Clergy from him who is found guilty of burning Houses, by Verdict or Confession. Thirdly, they cited a Judgment in Parliament to prove it. Fourthly, they confirmed it by a constant Opinion and Proceeding of the Justices of Assizes in their Circuits.

As to the first, it was said, That this Relative (*such*) refers rather to the precedent Matter, than to the particular Form of Words, and to the End that the Remedy intended by the Makers of the Act, should be of as great Extent as the Mischief and Mischief was, (*such*) shall be taken *such in Mischief, and such in Inconvenience*) and to *such as in Form of Words*

Fitz. Inst. 87. a. b.  
Stamf. Pl. Cr.  
128. a.

Stamf. Pl. Cr.  
128. a. Palm.  
221, 222. 2 Inst.  
357. 481.



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(a) 2 Inst. 353,  
354, 355, 356,  
357, &c. 481.

(b) 3 Inst. 357.  
Statham Quare  
Impedit 14.  
(c) 2 Inst. 481.

(d) 2 Inst. 383,  
384, 385, 386.  
Stamf. Pl. Cr.  
168, 169, &c.

(e) 2 Inst. 321,  
322, 323, 6 Co.  
57. a. F. N. B.  
220. l. 198. E.  
2 Co. 135. a.  
Co. Lit. f. 46. a.

(f) 13 Co. 5, 6.  
Co. Lit. 238. a.  
256. a. Plowd.  
47. a. Hob. 242.  
243. 1 Keble 609.

is mentioned before. And therefore the Statute of (a) *W. 2 cap. 5.* is, *Cum quis jus presentandi non habens presentaverit ad aliquam Ecclesiam, &c. per quod heredes infra aetatem existentes per fraudem & negligentiam custodum, &c. Statutum est quod hujusmodi presentaciones, &c. non sint hujusmodi rectis heredibus, &c. ita prejudiciales:* and the Case in (b) 44 *E. 3. 21. a. b.* That an Infant had an Advowson by Descent, and avoided an Usurpation without Averment, that he was in Ward; because this Word (c) (*hujusmodi*) *z. e. such.* shall be taken *such in Mischief, viz.* to provide for all the Mischief, and having an Advowson by Descent (which was the Substance) it matters not, whether he was in Ward, or not. So the Statute of (d) *W. 2 cap. 12.* the Preamble saith, *Per appellatores nihil habentes, &c.* and the Body of the Act is, *Statutum est quod cum aliquis sic appellatus, &c. yet without Question, If the Appellor is sufficient, notwithstanding this Word (Sic) the Statute extends to it.* And where the Statute of (e) 21 *H. 8. 15.* speaks in the Preamble of Leases made for great Fines for the Incomes, &c. and the Purview is, *That all such Termors shall or may falsly,* it has been always taken, That the Statute extends to Leases made, either for a small Fine, or for no Fine: So the Preamble of the Statute of (f) 32 *H. 8. cap. 33.* speaks of Disseisins with Strength, and the Body is, *That the dying seised of any such Disseisor, &c.* it extends to a Disseisin without Force; for, *such in Mischief;* and so it is held in 3 & 4 *Phil. & Mary, Dyer 219. pl. 7.* and so in many other Cases. And as to the Style, or Title of the Act, that is no Parcel of the Act, and ancient Statutes were without any Title, and many Acts are of greater Extent than the Titles are, as the Statute of *Uses anno 27 H. 8. cap. 10.* the Title is, *An Act expressing an Order for Uses and Wills,* and yet the Body of the Act extends to Joyntures and Dowers of Women. And so in this Case they argued, That the Body of the Act of 5 & 6 *E. 6.* was more spacious than the Title, but not more spacious than the Preamble; for the Preamble extends to two Mischiefs, one *implicite* by Recital and the other *explicite* by express Words; *Implicite* by the Recital of 23 & 25 *H. 8.* which extend to burning of Houses, and by Recital of 1 *E. 6.* in which was the Omission of burning of Houses (which was thought to be by the Negligence of the Writer; for it is a more heinous Offence, than many others which are there mentioned) *Explicite* of Robbery, &c. in one County, and carrying into another County; then when the Words are, *For Redress whereof be it enacted, &c.* It refers not only to the latter, which was the Offence of Commission, but also to the Omission of the Offence of burning of Houses in the Stat. of 1 *E. 6.*

and

and then this Word (*such*) shall have Reference to burning of Houses, as well in the Statute of 23 H. 8. as in the said Act of 25 H. 8. Both which are before recited in the same Act of 5 & 6 E. 6. Another Reason was added, That the Purview of the Act of 5 & 6 E. 6. has a double Sentence, *sc. That the said Act of 25 H. 8. touching the putting of such Offenders from their Clergy*, if that should be admitted to extend only to Robbery in one County, and carrying into another, yet there is another Sentence in the same Act, and every Article, Clause, and Sentence, contained in the same touching Clergy, shall from henceforth touching such Offences remain, and be in full Strength and Vertue. And it was argued, That this latter Clause should extend to the whole Act of 25 H. 8. for divers Reasons: 1. Because the first Sentence had been sufficient for the Robbery in one County, and carrying into another, and then this latter Sentence which has more general Words, *sc. And every Article, Clause, and Sentence, &c.* would be vain and superfluous, *Et (a) vipercina est expositio qua corrodit viscera textus.* (a) 3 Bülfr. 179  
Hawks Maxx  
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2. There was but one Clause or Sentence, concerning Robbery in one County, and carrying into another, and this Branch of 5 & 6 E. 6. saith, *All and every Article, Clause, and Sentence, concerning Clergy*, so that it would be hard, that these general Words should be restrained to one particular Clause and Sentence; but the good Expositor makes every Sentence have its Operation to suppress all the Mischiefs before the said Act, and chiefly those which are specified in the Act it self (as it is in the Case in Question) and altho' the latter Words of this Sentence are, *Shall from henceforth concerning such Offences remain in Force*, in good Construction these Words (*such Offences*) ought to have Reference to such Offences, as are contained in any Article, Clause, or Sentence of the Act of 23 H. 8. touching Clergy. And by this Construction, such heinous Offence will not pass in Effect with Impunity, and Malefactors will not be encouraged to burn, not only Houses, but Towns and Cities, and pass with a little burning in the Hand, and all the Statutes will by this Construction stand together, and be well reconciled, and agree with the constant and continual Experience of the Judges. And (b) it is frequent in our Books, That Penal Statutes have been taken by Intendment, to the End, they should not be illusory, but should take Effect according to the express Intention of the Makers of the Act: And for that it was enacted by the Statute of (c) 27 E. 3. cap. 1. That he who draws any to the Court of Rome, in a Plea which might be determined in the King's Court, or of Things whereof Judgment is given in the

(b) Plowd. Com. 10. a. 46. b. 46 E. 3. 17. a.

(c) 3 Inst. 119, 120, 121, 122 &c. 12 Co. 37.

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King's Court, or who sues in any other Court, to defeat or impeach the Judgments given in the King's Courts, should have Day (a) containing the Space of two Months, &c. and if they come not at the same Day in proper Person, they should be put out of Protection, &c. A Question was moved in (b) 30 E. 3. 11. b. (which was within three Years after the making of this Act) IF the Offender does not make Default, but appears, and pleads, and is condemned, if he should have the high and penal Judgment of *Frammure* given by the said Act. But afterwards in (c) 39 E. 3. 7. a. b. Judgment was given against the Bishop of *Chichester*, who appeared, That he shou'd be put out of Protection, &c. and yet the Letter of the Statute is, and if they do not come at the same Day, &c. they shall be put out of Protection, *a fortiori*, when he appears and says nothing, such Judgment shall be given, for in equal Mischief, *a multo fortiori* when the Def. in such Case appears, and pleads, and is found guilty, he shall have Judgment on the said Statute; as it is adjudged in *Fereby's Case* in 44 E. 3. 36. a. & b. and yet it is out of the Words of the Act, which speaks only of Default; and infinite Judgments on the Statute of 27 E. 3. have been given accordingly, and therefore (d) *Qui heret in litera heret in Cortice*; which Case, twas said, had greater Defect of Words than the Case now in Question: By the Statute of (e) 8 H. 6. cap. 12. it is ordained, That if any Rec. or any Parcel thereof, &c. is voluntarily carried away, withdrawn, &c. by Reason whereof any Judgment is reversed, that such Stealer, Carrier away, Withdrawer, and Avoider, &c. are adjudged for Felons. And in (f) 2 R. 3. 10. a. an Action of Debt was brought against J. B. whereas in Truth his Name was W. B. Procces continued till he was Outlawed, and the Original was rased, and the 3 *Capias* and made W. B. and the Rolls rased and made accordingly, this Act was resolved to be Felony by all the Justices; and yet by that, the Outlawry was made good, &c. So by the Statute of 25 E. 3. the killing of his Master is adjudged Treason, and it extends by Construction to (g) the Mistres, as it is held in 19 H. 6. 47. a. and in many other Cases, Penal Statutes have been taken by Intendment to remedy the Mischief, in Advancement of Justice, and in Suppression of Crimes and heinous Offences.

As to the second, The Statute of 25 H. 8. has taken away Clergy from him, who is found guilty of burning of an House; for the said Act of 25 H. 8. takes away Clergy from him, who in such Case upon his Arraignment stands mute, or will not plead, or challenges above the Number of twenty, in like Manner and Form,

(a) 3 Inst. 125.

(b) 9 Co. 74. 2.

(c) 3 Inst. 125.

(d) 5 Co. 4. b.  
Co. Lit. 54. b.  
283. b. 3 Bulstr.  
65. Wing. Max.  
19. Hawks Max.  
425.

(e) 3 Inst. 70.  
71. 72. 73. Dalt.  
Just. 386. Keb.  
Just. 245. 246.  
Stamf. Pl. Cr.  
36. b. Fitz.  
Just. 41. b.

(f) Br. Coron.  
173. Br. Treason  
31. Stamf.  
Pl. Cr. 36. b.

(g) Hales Pl.  
Cr. 23. Plov.  
86. b. Stamf. Pl.  
Cr. 10. b.  
3 Inst. 20.  
12 Aff. 30. Fitz.  
Just. 14. b. Dalt.  
Just. 336. Br.  
Coron 74. Br.  
Treason 8. 12.  
Fitz. Cor. 73  
170.

Form, as if he were found guilty after the Laws of the Land, which are affirmative Words, and take away the Clergy from him, who is found guilty according to the Laws of the Land.

As to third Point, The Makers of the Statute of (a) 4 & 5 Phil. & Mar. c. 4. knowing that by the said Statute of 25 H. 8. which was revived by the Statute of 5 & 6 E. 6. Clergy was taken from the principal Offender in the said Case of burning of an House, and not from any Accessory, have provided that the Accessories before, in such Case shall be ousted of their Clergy; which was taken by divers of the Justices to be a good Interpretation by the whole Parliament of all the said Acts concerning this Matter, for if the Principal should have his Clergy, it would be absurd, and never seen in the whole Law, that the Clergy should be taken from the Accessory only, and leave the principal Offender at large to have his Clergy. Secondly, It would be in vain by the said Act of (b) 4 & 5 Phil. & Mar. to take away Clergy from the Accessory before, and leave the Principal to have his Clergy, for if the (c) Principal has his Clergy before Judgment, the Accessory shall not be arraigned, as it is held in the Fourth Part of my Reports, fol. 43. b. 44. a. Nota bene Reader, The said Act of 4 & 5 Phil. & Mar. takes away Clergy from him who is Accessory before the Offence of burning of an House, &c. extends where the Accessory is Outlawed or otherwise Attainted or Convicted, or stands mute, or denies to answer directly, or challenges above the Number of twenty, which is well and perfect as to that, but this Act doth not extend to every Burglary, or breaking of Houses, &c. but only when Robbery is committed.

(a) Jenk. Cent. 221. Dalt. Just. 524. Hales Pl. Cr. 232, 233. Fitz. Just. 86. b.  
(b) Savil 46.  
(c) Cr. El. 547. 3 H. 7. 1. b. Br. Corone 131. Br. Clergy 15. Fitz. Corone 58. 9 H. 7. 19. b. Plow. 99 b. 2 R. 3. 21. b. Stamf. Pl. Cr. 47. a. b. Moor 461. 13 E. 4. 1. b. Br. Corone 157. 2 Inst. 183, 184. 3 Inst. 114, 139. 9 Co. 117. a. Cr. Car. 566. 7 H. 7. 12. b. Fitz. Cr. 53. Br. Corone 137. Br. Clergy 16. Hales Pl. Cr. 221, 222. Bl. Dalt. Just. 401. Fitz. Just. 32. b. 33. a. vet. N. B. 117. b. 18 E. 4. 9. b. Br. Corone 164. 9 Co. 119. b. 1 Rol. 777. Hales Pl. Cr. 233. (d) 3 Inst. 66. Cr. Car. 377. 378. 1 Jones 351. Fitz. Just. 88. b. Stamf. Pl. Cr. 126. a.

As to the fourth Point, upon Conference had with divers Clerks of Assise, and other ancient Clerks, and upon the Sight of divers and many Records, it appears, That the Principals and Accessories before have been (d) ousted of their Clergy, in the Case of burning of Houses: For their Manner of Entry when Clergy doth not lye, is to say *Cul. sus. per coll.* But when Clergy lies, then the Entry is, *Petit librum, &c.* And all the Presidents but one (and that was before Sir John Puckering, and his Companion, Justices of Assise in the County of Essex) were, *Cul. sus. per Collum*, without the Words, *Petit librum*. Upon all which Matter, and upon View of the said Presidents, it was resolved, That the said Offender in the Case now in Question should be ousted of his Clergy; and accordingly at the last Assises in the County of Cambridge (altho' the Offender could read well) Judgment was given upon him, and Execution done accordingly, and Order given, that he should be hanged in Chains near the Place where he offended, & ita fuit.

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*Nota* Reader, As to Burglary and Robbery in Houses, &c. for as much as Doubts and Questions may arise upon what has been said, I have thought it necessary (by Way of Appendix) to make a short Explanation of it, and of some other Things, to the Intent, That of the one Side, great Offences should not pass unpunished, nor of the other Side, the Subject be deprived of the Privilege which the Law gives him.

Jenk. Cent. 222.  
Hob. 291.

By the Statute of 18 Eliz. cap. 7. it is enacted, *That if any Person shall commit any Felonious Burglary, and shall be found guilty by Verdict, or shall be outlawed, or upon his Arraignment shall confess the same; in every such Case he shall be ousted of his Clergy:* by this Act it is commonly held, and so published in some printed Books, That none shall have Clergy who commits any Felonious Burglary. And that is true if it is well understood, and the Secret thereof is worthy your Apprehension and Knowledge, for this Statute of 18 Eliz. extends only to three Cases, viz. where the Offender is outlawed, or is found guilty by Verdict, or confesses it: And therefore if any one is indicted of Burglary generally at the Common Law, (without something special and without any Allegation according to certain Statutes in such Case provided) if the Offender is Outlawed, or if upon not guilty pleaded, he is found guilty by Verdict; or if he confesses the same, he shall be ousted of the Privilege of Clergy by this Statute, but if he is arraigned upon such general Indictment, and stands mute, or will not answer, or challenges above the Number of twenty; in such Cases, upon such Indictment, he shall have his Clergy, And therefore it would be wisely done, for the Indictment to say according to the Statutes of 23 H. 8. 1. & 1 E. 6. 12. that some Person was in the House and put in Fear, &c. for in such Case the same Act ousts him of his Clergy, or according to the Statute of 5 E. 6. 9. the Owner, his Wife, or Children, being sleeping or waking; for if in such special Matter is contained in the Indictment, then if the Offender stands mute, or will not directly answer, or challenges above the Number of twenty, he shall be ousted of his Clergy. But also the said Acts of 1 & 5 E. 6. are necessary to be explained, viz. The Act of 1 E. 6. 12. ought to be expounded, as it has been before, and although this Act extends to a single Burglary without Robbery, yet it requires, that some Person be then in the House that is put in Fear, For if the Party was there, and not put in Fear; as if he be sleeping, or awake, or in another Part of the House, and not put in Fear; then notwithstanding such Burglary, he shall have his Clergy.

Stiles Pl. Cr.  
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Clergy, notwithstanding the Statute of 23 H. 8. joyns Robbery with Burglary in such Case, and the Statute of 1 E. 6. 12. which extends to single Burglary, but both agree, That the Person ought to be put in Fear. And the said Act also of 5 E. 6. 9. is worthy of Exposition, For first, it joins Robbery with Burglary, So that if the Offender breaks the House in the Night, with a Felonious Intent, without taking any Thing; altho' the Person be put in Fear, yet he shall have his Clergy. Secondly, This Act extends only when the Offender is found guilty of the Felony, and not when the Offender is Outlawed, or stands mute, or will not answer, or challenges above the Number of twenty; and therefore the surest Way is, in the Indictment, to follow the Statute of 1 E. 6. 12. For that as to Burglary is the most sure and compleat Law, as to ground an Indictment of Burglary.

But what has been said extends to the principal Offenders in Burglary, and it is requisite that something should be said in what Cases the Accessories in this Offence shall have their Clergy, and in what not. The Statute which takes away the Priviledge of Clergy, in this and divers other Cases, is the said Statute of 4 & 5 Phil. & Mar. for the Act of 23 H. 8. which denies Clergy to the Accessory before, is (as has been said) taken away as to that by the said general Clause of 1 E. 6. and the Act of 18 Eliz. extends but to the Principal: And therefore the Words of the said Act of 4 & 5 Phil. & Mar. are to be considered, and they as to this Purpose are. *All and every Person and Persons that shall maliciously command, hire, or counsel any Person or Persons, to do any Robbery in any dwelling House or Houses, shall lose the Benefit of his Clergy; and of such Effect was the Statute of 23 H. 8. 1. and the Stat. of 25 H. 8. extends only to the Principal, by which it appears, That if the Commandment is to do any Felony and Robbery of Goods, that such Accessory before shall have his Clergy, Vide Stamford, lib. 1. cap. 24. by what other Felonies Burglary may be committed.* Savit 46.

But let us leave Burglary which ought to be done in the Night, and let us see in what Cases a Man shall be ousted of his Clergy, when he breaks any dwelling House in the Day. 1. Upon the Statutes of 23 H. 8. 25 H. 8. 1 E. 6. cap. 12. & 5 & 6 E. 6. 9. it is clear, That there ought to be an Actual Felony done, besides the breaking of the House in the Day, for the breaking of the House only in the

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the Day, altho' it was with a Felonious Intent, without taking away something, is not Felony; and therefore no Clergy is necessary in the Case. 2. Upon the said Statutes of 23 & 25 H. 8. there ought to be the Owner, his Wife, or some of his Children, or Servants then there and put in Fear; and by 1 E. 6. 12. some Person ought to be in the House and put in Fear, by 5 & 6 E. 6. c. 9. If the Owner, Wife, or some of his Children or Servants be in any Part of the House sleeping, or waking, and all the other Points concerning the Attainder, Conviction, standing mute, &c. in Case of Burglary extend also to Robbery in a dwelling House in the Day Time: And he who robs any Person in (a) any Booth or Tent in any Fair or Market, the Owner, his Wife, Children, or Servants then there being sleeping or awake, shall be ousted of his Clergy by the Statute of 1 E. 6. cap. 12. & 56 E. 6. cap. 9. But two Things in the Case of Robbery in a dwelling House in the Day, are to be observed. None of these Statutes ousts the Party of his Clergy in Case of Robbery in a dwelling House in the Day, but in two Cases. 1. If any Person be put in Fear upon the Statute of 1 E. 6. cap. 12. and other Statutes before. 2. (b) If the Owner, his Wife, his Children, or Servants, be then in another Part of the same House, altho' they be not put in Fear, the Offender shall be ousted of his Clergy by the Statute of 5 & 6 E. 6. cap. 9. but if a Stranger be there by the Owner's Leave, the Offender shall have his Clergy, for it is out of the Words; and of such Opinion is *Stamf.* 129. b. who vouches the Opinion of all the Justices accordingly, But a Doubt was conceived upon these Statutes, If any in the Day Time had broken an Out-house, as a Barn, Stable, &c. if that should be said, as to oust the Offender of his Clergy, a dwelling House, and afterwards the Statute of 39 Eliz. cap. 15. was made, by the which it is enacted, That he who robbeth to the Value of five Shillings in any dwelling House or Out-House in the Day Time, altho' no Person was there within it, shall be ousted of his Clergy. And it is to be known, That none of the said Statutes extends to any Accessory before the Robbery in an House in the Day Time, but only (as it has been often said) the Statute of 23 H. 8. and the Statute of 4 & 5 P. & M. and the Statute of 23 H. 8. as to this Point, is taken away by the Statute of 1 E. 6. cap. 12. Then let us see in what Cases the Accessory before shall have his Clergy, and in what not. And therefore the said Act of

Antea 31. b.  
Stamf. Pl. Cr.  
126. a.

(a) Stamf. Pl.  
Cr. 128, 129. a.  
3 Inst. 64. Fitz.  
Just. 89. a. Dalt.  
Just. 524.

(b) Godbolt 315.  
Stamf. Pl. Cr.  
129. a. Fitz. Just.  
89. a.

4 Co. 40. a.

4 & 5 P. & M. is to be again review'd and consider'd as to this Point. For in Case where the Clergy is taken away from the Principal, in Case of Robbing in any dwelling House in the Day, before the said Act of (a) 4 & 5 P. & M. in such Case the Clergy is taken from the Accessory before by the Statute of 4 & 5 P. & M. But 1. This Act doth not extend to Accessories before, in Case of robbing in a Booth or Tent, be it in the Day or in the Night; for these are not esteem'd in Law for a dwelling House, as the Statute of 4 & 5 P. & M. speaks, and as well appears in the Recital of 5 & 6 E. 6. cap. 9. Also the Statute of 4 & 5 P. & M. doth not extend to the Offence within the Act of 39 Eliz. which was made long Time after the Act of 4 & 5 P. & M. and the Act of (b) 39 El. takes away Clergy from the Principal Offender only. And you may take this for a general Rule, That (c) every Act which takes away Clergy from the Principal, and speaks nothing of the Accessory; that the Accessories as well before as after shall have their Clergy, as it was held by all the Justices, 1 Mar. fol. 99. a. (d) Dyer. Another general Rule is, (e) In all Cases where a Man is ousted by any Statute for any Offence from the Benefit of his Clergy, the same Offence ought to be contained in the Indictment or Appeal, in such Manner and Form, and with the same (f) Circumstances as is contained in the Statute, or otherwise the Offender shall have his Clergy, because the Statute which ousts him of his Clergy not being pursued, the Offender is left to the Common Law: for Example, upon the said Act of 4 & 5 P. & M. the Words are, *All and every Person and Persons that shall maliciously command, hire, or counsel any Person to commit or do any Felony, wilful Murder, or to do any Robbery in any dwelling House, &c. or wilfully to burn a dwelling House, &c.* And thereupon the Case in anno 2 Regina Eliz. Dyer (h) 183. was, That a Man is indicted of Robbery of another in his Mansion-house, he being in the said House, and put in Fear, and another is indicted, because he feloniously before the said Robbery procured and counselled the Principal to commit that Robbery; in which Indictment of the Accessory this Word (i) (Maliciously) was omitted; And by the Opinion of all the Justices of Assize in their Assembly, except the Chief Justice, and A. Brown, for Want of this Word (maliciously) in the Indictment, the Party had his Clergy, because the Words of the Stat. of 4 & 5 P. & M. were not pursued. Also in 18 El. a Serv. of the Lady

(a) Sav. 46. 4 & 5 P. & M. cap. 4. Dalt. Just. 524.

(b) 39 El. c. 15. 3 Inst. 65. Cra. Car. 474. Jenk. Cent. 221. c. 72. (c) Hales Pl. Cr. 231.

(d) Dyer 99. pl. 59. Stamf. pl. Cr. 125. a. (e) Stamf. Pl. Cr. 130. a. Fitz. Just. 89. b.

(f) Dyer 363. pl. 25. 11 Co. 58. a. 1 Anderl. 49. cap. 123. Doct. pla. 332. 333. Dyer 312. pl. 86. Cro. Eliz. 749. 2 Keb. 289. (g) Hales Pl. Cr. 232. Savil 46. Dyer 186. pl. 3. Fitz. Just. 86. b. Dalt. Just. 524.

(h) Jenk. Cent. 221. cap. 72. Dyer 183. pl. 59.

(i) Hales Pl. Cr. 231.



ALEXAND. POWLTER's Case. PART XI.

Dyer 186. pl. 3. Lady *Laxton* of *London*, was indicted for feloniously procuring the Robbery of his Mistress by one *Crompton*: But in the Indictment there wanted *Consuluit, Conduxit, vel precepit*, and also Maliciously; and therefore Clergy was allowed him after Judgment *per Opinionem Justiciariorum*.

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Mich.

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# Mich. 12 Jacobi Regis.

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## METCALFE'S Case.

**W**OOD and others brought a Writ of (a) Accompt in the Common Pleas against *Metcalfe*, and upon Issue found against him, Judgment was given *Quod computet*, & (b) *ideo in misericordia quia non prius computavit*. Upon which Judgment, *Metcalfe* brought a Writ of Error; and now two Questions were moved. 1. If after this Judgment, the Writ of Error lies or not? The 2. If the Writ of Error does not lie, if the Record be removed or not? And it was argued on the Plaintiff's Side, that the Writ of Error well lies: For after this Verdict and Judgment, if the Plaintiff dies, or if the Plaintiff be a Woman, and after this Judgment takes Husband, the Writ shall not abate; and so it is adjudged (c) 27 E. 3. 87. a. and therewith agrees (d) 14 H. 4. 1. a. where in a Writ of Accompt against one as Bailiff, and *ne unque son bailie*, &c. pleaded; and after Tryal against the Defendant, Judgment was given *quod Def. computet*, and afterwards the Plaintiff dies, his Executors had a *Scire facias* against the Defendant, which was served, and he appeared not; for which a *Capias ad computand'* issued against him, returnable at a certain Day; and the Plaintiffs prayed an *Exigent* against him, and had it. *Vide* (e) 21 E. 3. 32. a. and in 21 E. 3. 7. a. b. in *Robert de Holywel's Case*, it is adjudged, That after such Judgment, the Plaintiff can't be (f) *Non-suit*; but notwithstanding his Default, he may have a *Capias ad computand'* within the Year, and a *Scire fac'* after the Year; and therewith agrees (h) 3 H. 4. 7. a. b. And there it is said, That by the Judgm. that the Def. shall Accompt, that the Original is determined, (k) 21 H. 6. 26. a. b. in *J. Ferrer's Case*; but

(a) Godbolt. 258.  
1 Roll. Rep. 84.  
Cr. Jac. 356, 357.  
1 Roll. 750.  
3 Keb. 384.  
Hughs's Abr. 16, 1120, 1623.  
(b) 2 Roll. 2128.  
(c) 27 E. 3. 86 b.  
87. a. Fitz. Acc. compt. 88.  
(d) 14 H. 4. 1. a.  
Fitz. Exec. 59.  
Br. Accompt 33.  
Br. Excom. 39.  
Br. Exigent 27.  
1 Roll. Rep. 84.  
Br. Procces 41.  
Br. Scire fac' 81.  
Cr. Jac. 356.  
contra.  
(e) 1 Roll. Rep. 84.  
(f) Fitz. Acc. compt 65.  
(g) 1 H. 7. 2. b.  
contra 3 H. 4.  
7. b. Fitz. Acc. compt 15. contra  
Br. Accompt 63.  
Br. Nonfuit 41.  
Co. Lit. 139. b.  
cont. Cro. Eliz. 19. 2 Roll. 121.  
Cro. Jac. 356.

cont. Styl. Pract. Regist. 359. contra. 1 Roll. Rep. 84, 85. contra. (h) Br. Accompt 27. Br. Nonfuit 53. (i) Poftea 40. contra. (k) Fitz. Accompt 16. Br. Accompt 45. Br. Nonfuit 25.

but there it is said, That altho' in such Case the Plaintiff can't be (a) Nonsuit, yet the Default of the Plaintiff in such Case shall Bar him for ever; and so is a Judgment there cited in (b) 19 E. 3. by Wilby, Vide 18 E. 2. Accompt 123. (c) 21 E. 3. 7. a. b. (d) 1 H. 7. 2. b. (e) 3 H. 4. 7. a. b. (f) 41 E. 3. 3. a. It is held, That if two be adjudged to Accompt, and the one dies, the other shall Accompt alone, and the Writ shall not abate, Vide 31 E. 3. Accompt, Satham. Vide 34 E. 1. Brief 854. 1 E. 5. f. 1. a. In a Writ of Accompt, the Defendant was awarded to Accompt, and a *Capias ad computandum* awarded; and the Defendant came in by *Cepi corpus*, and the Auditors were assigned to him, &c. wherefore the Party entered in Accompt, and pleaded a Payment by the Command of the Plaintiff, the Plaintiff traversed the Command, and upon that they were at Issue, and after Issue joined, the Defendant was let to mainprise by Recognisance; and afterwards the Issue was discontinued by the Demise of King E. 4. before Verdict given. And in that Case two Points were resolved. 1. That the Mainpernors were discharged by the Demise of the King. 2. That after such Judgment given, that the Defendant *computet*, always the Entry is, *Ideo consideratum est quod predicti M. computet, & idem M. in misericordia, quia prius non computavit*, which proves that it is a Judgment, and by consequence a Writ of Error lies upon it.

But it was resolved by the whole Court, That the (g) Writ of Error upon this Judgment *quod computet*, &c. before the final Judgment given, lay not. And that appears by the Words of the Writ of Error, *s. Quia in recordo & processu, ac etiam in redditione iudicii loquela que fuit in curia nostra coram vobis, &c. per breve nostrum inter W. & M. qd' id' M. redderet presat' W. rationabilem computum suum de quo fuit Receptor denariorum, &c. Error intervenit manifestus ad grave damnum ipsius M. &c. Nos erronem si quis fuerit modo debito corrigi, & partibus predictis plenam & celerem Justiciam fieri volentes in hac parte, Vobis mandamus; qd' si iudicium inde reddit' sit, tunc recordum & processum loquela prad' cum omnibus ea tangentibus, &c. nobis, &c. mittatis & hoc breve, &c.* And all the Question of this Case was, What Judgment was intended in the Writ of Error? *s.* That, *quod defendent computet*, or the latter Judgment? And it was resolved, That (h) no Writ of Error lies till the last Judgment be given; and that for divers Reasons. 1. When a Thing (whereof there are divers Degrees and Qualities) is indefinitely mentioned in a Writ, Count, or other Record, the principal Thing, and the most worthy shall be intended; as 6 Eliz. Dyer 236. a. A Penalty inflicted by Act of Parliament to be recover'd in any of the Courts of Record of the Qu. shall be intended of the principal Courts

(a) Co. Lit. 239. b. contra. Cro. Jac. 356. 2 Roll. 131. Styl. Pract. Regist. 359. contra. Cr. El. 19. 1 Roll. Rep. 84, 85. cont. (b) 21 H. 6. 26. b. (c) Fitz. Accompt 65. (d) Fitz. Accompt 15. Cr. El. 636. Br. Accompt 63. Postea 40. b. Br. Nonsuit 41. (e) Fitz. Accompt 27. Br. Nonsuit 53. (f) Fitz. Accompt 23. Br. Accompt 10. Fitz. Respond. 29. 1 Roll. Rep. 34.

(g) Co. Lit. 288. b. Palm. 2. 4. Cro. El. 636. 1 Roll. 750. Godb. 258. Cr. Jac. 324, 356. 1 Roll. Rep. 85. 2 Bullfr. 119. 120. Hughs Abr. 16. 1 Leon. 193. 194. cap. 178.

(h) Co. Lit. 288. b.

(i) Dyer 236. pl. 24. 6 Co. 19. b. 20. a. Moor 421. Cro. Car. 112. 146. 1 Jones 193. Hely 101. Hunt. 99. Cro. Jac. 53. Rep. 179. Styl. Rep. 430. 6 Co. 19. b. Cro. El. 737. 1 Ventris 8. Palm. 386. Cawly 82. Moor 600. Styl. 383. Jenk. Cent. 228. Plowd. 208. a. b. 1 Roll. Rep. 51. 4 Inst. 65, 164, 165. 12 Co. 98. 2 Roll. Rep. 331. Lit. Rep. 170.

Courts at *Westminster*, (a) 20 *H. 6. 23. a.* in an Accompt, sup-  
 posing the Defendant to be his Receiver from the Feast of St. *Michael*, shall be intended the principal Feast of St. *Michael*  
 the Archangel, and not St. *Michael de monte Tumba*. So (b)  
 13 *H. 4. 4. b.* 21 *H. 6. 8.* 37 *H. 6. 29. b.* If the Father and Son  
 are of one Name, viz. J. S. if J. S. is named generally in a  
 Writ, Count, or other Record, it shall be intended of the  
 Father, for he is the more worthy. So 10 *E. 4. 11. a. b.* 7 *R. 2.*  
*iii. Bar.* 241. A (c) Man is bound to prove a Thing, he ought  
 to prove it by the most principal Proof in Law, and that is by  
 Jury: So (d) if Fee is mentioned, it shall be intended Fee-  
 simple; and if Escuage, it shall be intended the Principal  
 Escuage, and that is Escuage incertain, *Lit. fol. 21. a.* And  
 see a notable Case to this Purpose, in 5 *E. 2. Resciet* 165.  
 Where the Case was, That in Admeasurement of Pasture a-  
 gainst a Man and his Wife, Judgment was given that Ad-  
 measurement should be made; and afterwards it was made in  
 the Country, and returned into the Common Pleas 15 *Hill.*  
 at which Day the Husband made Default, and the Wife came  
 into Court before the Judgment given in the Principal, and  
 prayed to be received, and was received, notwithstanding  
*qd' dictum fuit a parte*, That she was come too late after the  
 Admeasurement awarded, which is a Judgment, *ad quod*  
*dictum fuit per Heric*, that it was not a Judgment upon the  
 Principal. And where the Statute of *W. 2. cap. 3.* is, *Si uxor*  
*ante iudicium venerit, &c. Statutum debet intelligi de principa-*  
*li iudicio*: So in 22 *E. 3. Tit. Resciet* 139. Assise of Mortdan-  
 cester against the Husband and Wife, the Assise was awarded  
 by Default, and the Assise remained all the while *pro defectu*  
*juratorum*; and now the Wife prayed to be received, and it  
 was objected, That Judgment was given, that the Assise  
 should be taken; and afterwards the Wife, who came before  
 the final Judgm. was received; and therewith agrees 17 *E.*  
 2. *ibid'* 173. & 22 *Ass. pl.* 22. after the Assise awarded the  
 Wife was received, 24 *E. 3. 29. b.* and divers other Books  
 agree.

2. The said Words, *Si iudicium inde redditum sit, &c.* are in-  
 tended not only *de principali iudicio*, as appears before, but  
 also *de integro iudicio*, s. When all the Matter within the O-  
 riginal is determined, as in 34 *H. 6. 41. a.* in *Humphrey Bo-*  
*hun's Case*, in a *Quare impedit* brought against two; one pleads  
 to issue, and the other confessed the Action; upon which Con-  
 fession Judgment is given; and he against whom Judgment  
 was given, sued a Writ of Error to remove the Record into  
 the King's Bench: *Prisot & tota Curia*, that can't be, for  
 the Writ of Error rehearset all those who are Parties to the  
 Original Writ; and then the Writ saith, *Et si iudicium inde*  
*redditum sit, tunc recordum illud habeatis*; wherefore it proves  
 that

(a) 5 Co. 20. a.  
 Fitz. Count 314  
 Br. Count 13.  
 Br. Exposition  
 20. Br. Jour. 51  
 (b) 5 Co. 20. a.  
 Fitz. Brief 118.  
 137, 586. Br.  
 Addition 12, 16,  
 18, 43. Br.  
 Noim. 30. 33 *H.*  
 6. 53. b. 54. a.  
 44 E. 3. 34. b.  
 Br. Brief 471.  
 7 H. 7. 11. b.  
 (c) 4 Co. 74. b.  
 3 Bullstr. 55.  
 6 Co. 20. a.  
 2 Brownl. 57.  
 Cr. Jac. 188.  
 232, 381. 1 Roll.  
 Rep. 222. Hob.  
 93, 217. 1 Syd.  
 313. Moor 113.  
 Num. 253, 181.  
 Nu. 322, 845.  
 Nu. 1140, 888.  
 Nu. 1250. Perk.  
 Sect. 791. 2 Roll.  
 595. 1 Roll. Rep.  
 261. 3 Inst. 98.  
 Br. Condit. 151.  
 Hugh's Abr.  
 1541.  
 (d) 5 Co. 20. a.  
 9 Co. 27. a.  
 Cro. Eliz. 57.  
 (e) 6 Co. 19. b.  
 20. a. Lit. Sect.  
 99. Co. Lit. 73. a.  
 2 Inst. 342, 343.  
 Resciet 173.  
 Resciet 25.

Palm. 4. Bridg.  
 57, 58. 2 Roll.  
 Rep. 125.  
 34 H. 6. 11. a. b.  
 38, 39, 40. Fitz.  
 Error 35. Palm.  
 4. 33 H. 6. 23. b.  
 34 H. 6. 41. a.

34 H. 6. 41. 2.

that can't be before the whole Matter is determined: To which *Littleton* said, If a Writ of Trespass is brought against two, and one appears and pleads, so that he is attainted of the Trespass, and Judgment given against him, notwithstanding the Matter is not determined against the other, yet he against whom the Judgment was given, shall have a Writ of Error, and the Plea shall be removed. *Prifot*, No truly, and the contrary to what you say was here lately adjudged, in the Case of the Lord *Cromwel*, against *Carway* and others, 32 H. 6. 5. a. b. & 6. b. In Trespass by the Lord of S. against one for taking his Cattle, as to Parcel, the Defendant pleaded not guilty, and as to the other he pleaded another Plea, upon which the Plaintiff demurr'd, and afterwards the Issue was found for the Plaintiff, upon which he had Judgment: Yet he shall not have a Writ of Error, till the whole Matter is determined. And the Reason of the said Case is, that if the Record should be removed, till the whole Matter is determined, there would be a failure of Right: For the Judges of the King's Bench can't proceed upon the Matter which is not determined, and upon which no Judgment is given; and the whole Record ought to be either in the Common Pleas or in the King's Bench, also the Original is entire, and can't be there and here likewise. 39 H. 6. Tit. Error 11. A Man cast in a Writ of Error of a Judgment given (where the Judgment was given of the Principal, and of the Damages and not of the Costs; for which Cause it was rejected, because the Writ is Conditional, *Si Judicium inde redditum sit*, 12 *Eliz. Dyer* 291. b. In a Formedon brought by *Fitz-Williams*, against *Copley*, the Demandant had Judgment for Part, &c. and afterwards the Tenant brought a general Writ of Error before the Discussion of the Residue, and earnestly prayed, that the Record might be removed in *Banco Regis*, *sed Curia noluit hoc concedere* before the whole Matter demanded was determined; for otherwise they shou'd proceed in a Plea without a Warrant; and also the Writ of Error saith, *Si judicium inde redditum sit*, and this Word *inde* goes to the whole Demand. So in the Case at Bar, the Record shall not be removed till the whole Matter of the Accompt is determined, & *judicium detur de integro*, and that can't be till the Judgment is given of the Arrearages and Damages, &c. *Ne curia Domini Regis deficeret in iustitia exhibenda*, The Record shall not be removed till the whole Matter is determined.

Fitz Judgment  
37. Br. Demurr-  
ser 23.

Postea 41. 2.

Dyer 291. b. pl.  
67. Co. Lit.  
288. b. 34 H. 6.  
41. a. Palm. 4. 6.  
39 H. 6. Error  
40. 33 H. 6. 23. b.  
2 Rol. Rep. 125.  
32 H. 6. 5. 2.

1. Rol. Rep. 86.  
5 Co. 111. 2.

Co. Lit. 74. 2.

3. The Writ of Error is to be intended not only *De principali & integro*, but also *De judicio graviter damnofo*: And

as to that, it is to be known, That the Original Writ of Accompt, notwithstanding the said Award, doth remain undetermined, and upon that the Judgment in the End shall be given: for the Original is, that the Defendant *Computet*, &c. and then the Defendant enters in Accompt before Auditors, &c. before whom he pleads to Issue, which is found by Verdict, or in other Manner, that he is in Arrearages of a certain Sum; and then the Plaintiff by Force of the said Original Writ of Accompt shall have final, or definitive Judgment, *Ideo consideratum est quod præd' W. recuperet versus præfat' M.* so much as is found in arrearages, & *damna occasione interplacitationis*, &c. and that is the Judgment by which the Defendant is charged with the Account, which is the Effect of his Suit; and the other Award is but Accessory to it: For by the Award *quod computet*, no Sum is recovered, nor doth it make an End of the Original; but is only a Means to bring it to the End: But the Judgment, by which he shall recover not only the Arrearages of the Account, but Damages also, as is aforesaid, is the End and Determination of the Original: And therefore the Writ of Error may well say *ad grave damnum* of him who was Defendant in the Account; for by the Judgment he has Loss, but not by the Award; and therefore the Judgment intended in the Writ of Error is *Judicium graviter damnosum* to the Defendant.

The fourth Reason was, That the Award *quod computet*, is but as an Award, as an Award that the Assise shall be taken, an Award in Wast, a Writ of Enquiry of Wast, in Trespass, &c. a Writ of Enquiry of Damages in Partitione facienda, an Award *quod partitio fiat*, in a Writ of Admeasurement, an Award *quod Admensuratio fiat*, an Award that one shall be ousted of Aid, and the like, which are but Awards of the Court, and are but interlocutory and not definitive; whereupon no Writ of Error lies till the last Judgment is given: And therewith agrees, 7 R. 2. Tit. Error 68. by *Belknap, Skipwith*, and the whole Court; That if a Man prays in Aid, and is ousted by Award, he shall not have a Writ of Error of that Award, before the principal Plea is determined. Vide 17 E. 3. 5. in darrein Presentment: Et a *Sententia interlocutoria non appellatur jure Civili.*

5. Till the latter Judgment, the Parties have Day by the (a) Roll, which proves that the Plea remains undetermined. And Hill. 39 Eliz. Rot. 327. (b) Anne Countess of Warwick brought a Writ of Partition against *Henry Lord Berkley*, where Judgment

Antea 38. contra.

Cro. Jac. 356.

1 Rol. Rep. 85.  
Palm. 2. Cro.  
Jac. 324. 2 Bullstr.  
104. 119. 120.  
1 Rol. 750. Cro.  
El. 235. 1 Leon.  
193. G. 178.(a) Co. Lit. 135. 2.  
(b) 1 Rol. Rep.  
84. 85. 2 Bullstr.  
104. 1 Rol. 750.  
1189. Abr.  
1446. Nov 71.  
Cr. El. 635. 643.  
1. Re. 25.  
126. Moor 643.

Judgment was given upon a special Verdict, *Quod partitio fieret*, and before the last Judgment, *viz.* (after Partition made) (a) *Quod partitio firma & stabilis imperpetuum teneatur*; the Lord Berkley brought a Writ of Error, and it was (b) resolved, That the Writ of Error lay not till the principal Judgment given, which determines the Plea: As in a Writ of Dower, when Judgment is given that she shall recover her Dower, there the Original is determined; and the Sheriff shall make Execution of the third Part by Meets and Bounds, which Process need not be returned.

(a) Cro. El. 65.  
(b) 1 Roll. Rep. 85. There was no Resolution.  
Co. Lit. 168. 2.  
169. 2. Cro. El. 436. Cro. Jac. 324. 2 Bullstr. 219.

And for direct Authority in the Point *in terminis terminantibus*, in (c) 21 E. 3. fol. 9. a. Thorp came to the Bar, and said, How that A. brought a Writ of Accompt against B. who was awarded to Accompt, and a *Capias ad computandum* issued against him: And now the said B. has brought a Writ of Error to disturb the Accompt; and prayed, That the Record might not be sent till he had accompted: *Stoufe*, it shall not; for the Plea is not ended until he hath accompted: & *ea de causa* the Court granted him, That the Record should not be removed: *Et* 21 E. 3. Tit. Accompt, *Statham*. Vide 6 E. 4. 2 & 3.

(c) 1 Roll. Rep. 84. 1 Roll. 750. Palm. 2. 2 Bullstr. 104. 1 Leon. 194.

And it is held in (d) 1 H. 7. 2. b. in these Words, If the Defendant is adjudged to Accompt, and they are at Issue before Auditors, and the Enquest is ready to pass, and the Plaintiff makes Default; now shall the Plaintiff be Nonsuit, and shall not be received after: And if the Plaintiff is present, and will not sue further, he shall be barred in the principal Action; For they said, That tho' the Party is adjudged to Accompt, yet the Action is not clearly determined until the Accompt is determined; for the Accompt depends upon the Original, and all is but one; and so the Nonsuit or Discontinuance now upon the Process upon the Accompt, is a Discontinuance of the whole Action; and it is not like other Actions, where the Plaintiff has once Judgment to recover; then the Action is clearly determined to all Intents: And when he sues a *Scire Facias* to have Execution, he may be Nonsuit in it; but that makes nothing to the Original Judgment.

(d) Fitz. Accompt 15. Antea 38. b. Br. Accompt 63. Br. Nonsuit 41. Cro. El. 19. 636. Co. Lit. 139. b. 2 Roll. 131. 1 Roll. Rep. 84. 85. Cro. Jac. 356. 3 H. 1. 7. b. Styl. Pract. Regist. 359.

And yet upon Consideration of these, and all the other Books, it may well be, that to divers Intents and Purposes (as in the said Books appear) the said Award *quod computet* is a Judgment, but not such a Judgment (for the Causes and Reasons before) as is intended within the Words of the Writ of Error, *Si iudicium inde redditum sit*; and for the most Part, every particular Case which has been ruled in the said Books, may well stand upon a several and particular Reason.

Know Reader that where it is said in this Case, That a Writ of Error lies not upon an Award, till the principal Judgment is given; and where it is also said, That no Writ of Error lies till the whole Matter in the Original is determined: Both these Rules are regularly true; but yet each of them has Exceptions; for as to the first, in *Trin.* 18 H. 7. in the *King's Bench*, Rot. 3. the Case was, That one *Eaton* was indicted of the Death of *John M.* before Justices of Peace in the County of *Lincoln*; upon which a *Capias* was Awarded, and upon that an Exigent; after which, *Eaton* died before any Attainder, upon which Award of the Exigent, his Administrators brought a Writ of Error; and it was adjudged, That the Writ of Error did lye; and the Reason was, because by the Award of the Exigent, his Goods and Chattels were forfeited; and of such Awards which tend *ad tale grave damnum* of the Party, a Writ of Error lies, altho' the principal Judgment was never given; and in this Case, *Exceptio probat regulam, & sic de similibus*. As to 2. you'll find in 36 H. 6. Tit. *Fieri facias* 3. it is held, That in Debt against divers, by several *Præcipes*, if there be Error in the Judgment against one, he shall have a Writ of Error. For in those Originals in which there are several Declarations, and Error is against one, he shall have a Writ of Error, and the Record of his Declaration and the Pleading, &c. shall be severed from the Original, and removed into the *King's Bench*; and yet the Original remains here, (as well because the Court of Common Pleas is in Possession of it, as because otherwise the Common Pleas could not proceed to determine the Residue without the Original; and in such Case, as I conceive, If there is Error in the Original upon a *Certiorari* the Chief Justice shall certifie but the Tenor of it: But where the Original is one, and one Declaration, he can't have a Writ of Error till the whole is determined: For the Record can't be in the *King's Bench* and here too.

It is likewise to be observ'd, That in the principal Case of 36 H. 6. *ubi supra*, That the Writ of *Entre sur Disscisin* was brought of Land, and of Rent; as to the Land, they were at Issue, and it was found for the Demandant; and the Rent depended yet in Plea; wherefore for the Land he shall have Judgment, &c. and there *Priscot* said, Bring us a special Writ of Error, if you will, and we will advise (when we see the Writ) if it shall be allowed, or not: and in the same Case the Opinion of the Court was, That the Parry in the principal Case should not have Judgment of his Costs of Suit, till the

Co. Lit. 288. b.

Cro. Jac. 357.  
 Palm. 2. 1 Rol.  
 Rep. 85. Hughs  
 Abr. 960. 5 Co.  
 111. 2. 2 Sid. 93.  
 1 Rol. 912. Cro.  
 El. 225. 271.  
 Owen 147.  
 1 Leon 325.  
 Godb. 377. 380.

Godbolt. 304.  
 Hardres 392.

Antea 39. b.



## METCALFE's Case. PART XI.

Original (i. all the Matter in the Original) was determined; for he can't know what Damage he shall sustain before the Suit is determined. *Vide (a) Dyer 12 El.*

(a) Palm. 4, 6.  
Dyer 291. b. pl.  
67. 34. H. 6.  
41. a. 39 H. 6.  
Error 40.  
33 H. 6. 23. b.  
2 Rol. Rep. 125.  
32 H. 6. 5. a.

291. b. *Vide* 36 H. 6. 13 a. b.

As to the second Point it was unanimously resolved, That the Record is not removed, because 'till such Judgment given as is intended in the Writ, the Chief Justice of the Common Pleas has no Authority to send it; for the Words are; *Si judicium inde redditum sit, tunc recordum & processum, &c. mittatis, &c.* and therefore the Record doth yet remain in the Common Pleas, upon which they may proceed, notwithstanding the Roll is marked, *Mittitur, &c.*

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Mich.

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# Mich. 12 Jacobi Regis.

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## RICHARD GODFREY'S Case.

**R**obert Bullen Plaintiff, in Replevin against Richard Godfrey Esquire, Owen Godfrey, and Jo. Haynes, which began Mich. 11 Jac. Regis Rot. and declared, That they took his Cattle, s. Two Cows, &c. at Bathale in a Place called the Common, &c. The said Richard avow'd, and the said Owen and John as Bayliffs to Richard made Conufance of taking the said Cattle, because the said Richard Godfrey was, and yet is feifed of the Manor of Bathale, in the County of Norfolk, (whereof the Place where was Parcel) &c. in Fee, and that the said R. and all those whose Estate he has in the said Manor *a tempore cujus* &c. have had a Leet once *per annum*, s. within a Month after Michaelmas before his Steward to be held as to the said Manor appertaining, and that such Steward for the Time being, Time whereof, &c. hath used to swear twelve or more of the Inhabitants and Resiants within the Leet aforesaid to be chief Pledges of the Leet, to enquire of all the Articles concerning the Leet, and to present them; and that within the said Manor, Time whereof &c. there has been such Custom, that the said chief Pledges of the said Leet for the Time being so sworn, have used *a tempore cujus*, &c. at every Leet to present (*inter alia*) that they themselves, the said chief Pledges should pay to the Lord of the Manor for the Time being *Pro capital' argent' five procento* *Leet* Ten Shillings, and have paid it at the same Leet, and that at the Leet held at the said Manor, within a Mo. after the Feast of St. Mic. an. 10 Jac. Reg' before T. King then Steward of the

1 Rol. Rep. 127.  
75°

6 Co. 77. b.  
Yelv. 186.  
1 Brownl. 190.  
1 Rol. Rep. 127.  
73°

## RICHARD GODFREY'S Case. PART XI.

faid *Rich. Godfrey* of the faid Leet, the faid Steward swore the faid *Robert Bullen*, *John Shaxton*, *Robert Daniel*, and others to the Number of twelve chief Pledges of the Leet, and to enquire of the Articles of the Leet; and they being fo sworn, at the faid Leet, *Contemptuose recusaverunt presentare quod ipsi iidem capitales plegii solverunt prefato Richardo Godfrey, tunc domino Manerii predicti ad illam eandem Letam pro capitali argento sive certo Lete x s: Necnon adtunc & ibidem contemptuose recusaverunt solvere Richardo ad eandem Letam*, the faid chief Silver or Certainty of Leet *ob quod predicti Thomas King Seneschallus, &c. ad illam eandem Letam finem sex Librarum super eisdem capitales plegios adtunc & ibidem imposuit*, And because the faid ten Shillings for chief Silver, or Certainty of Leet, and the faid Fine of 6 l, to the faid *Richard Godfrey* were behind and not paid, the faid *Richard Godfrey* avow'd and the faid *Owen* and *John* acknowledged the taking of the faid Cattle in the Place, where, &c. *pro prad' Seperalibus summis decem Solidorum & sex librarum, &c.* Upon which Avowry the Plaintiff demurr'd in Law. And in this Case four Points were moved and argued at the Bar. 1. Whether the faid Fine being jointly imposed was lawful? 2. If it was not duly impos'd, whether it was void, or voidable? 3. Whether the Avowant might distrain for the faid chief Silver, or Certainty of Leet? 4. When the Defendant avows the taking for two distinct Causes, and it appears of his own shewing, that one of them is not any Cause in Law, and that for the other he has a just Cause, whether he shall have a Return?

And this Case was argu'd several Terms at the Bar, and this Term at the Bench. And as to the first Question it was unanimously resolved, That the Fine imposed upon the Jurors jointly, was not lawfully impos'd, but it ought to have been assessed upon them severally, and especially in this Case, Because what produced the Fine was several, for the Refusal of every of them was several and personal, and the Refusal of the one is not the Refusal of the other; and therefore it was resolved, That if some refuse, and the others are ready to present, &c. Those who refuse, shall be only fined. And therefore the Case which *Prifot* puts in 35 H. 6. Tit. Examination 17. That if one of the Enquest escapes after they are sworn, so that they can't give their Verdict, altho' the others were not assenting to it, that yet they shall be all fined, was utterly denied to be Law; for *Nemo debet puniri pro alieno Delicto*, to which he is not party, privy, consenting, nor assenting, for then it might be said *Rutilius fecit, Amilius*

Co. Lit. 126. b.  
227. a. 1 Rol.  
Rep. 35. 73.  
Hughs Abr. 167.

1 Rol. Rep. 73.

*Amilius plectitur*; and it was said, That the said Case was either ill reported, or ill printed. *Vide Pl. Com. 519. b. Welkdon's Case.* One Juror who (a) misdemeaned himself, was only imprisoned and fined. *Vide 36 H. 6. 28.* And with this Resolution agrees, (b) 10 *E. 3. fol. 9. 10.* where *William Freeman* brought a Replevin against the Abbot of *Ramsfey* and others, of taking of his Cattle; the Abbot avowed the taking, by Reason that he is Lord of the Hundred of *F.* within which Hundred he had several Leets to hold once *per ann.* in the Town of *M.* within the same Hundred, &c. and that the said *William Freeman* is Resiant, &c. and that at such a Leet held within the Hundred, twelve were sworn to present Things presentable which belong'd to the Oath, and this *William* was one of them, and after they had received the Articles, they were commanded to answer to the Articles, and to present, &c. and they refusing, that this *William* and the others were amerced, and the Amercement of *William* was offered to half a Mark, and for the half Mark he avowed. To which *Ashton* of Council with the Plaintiff took Exception against the Avowry, because the Avowant supposed they were amerced in common; and afterwards he said, That the Amercement of *W.* was offered, and so was the Afferance several, and the Amercement in common, Judgment of the Avowry? To which it was answered and resolved, That so shall the Law be, for (c) because all refused, all shall be amerced; but when the Sum shall be imposed or offered, it shall be upon every one severally *Secundum (d) quantitatem delicti salvo contenmento suo*; and afterwards the Pl. was commanded to say further. And in 4 *Reg. El. Dyer 211.* (e) the Jurors of a Leet refusing to present the Articles of the Leet according to their Oath, the Steward may assess a Fine upon each of them. It was further resolved, That in a stronger Case than the Case at Bar, where the Foundation is joint, yet the Fine shall be several; As in Assise against two, the Disseisin is found with Force, altho' the Disseisin is joint, yet the Fine shall be several, and therewith agrees 10 *E. 3. 10. a.* So in 30 *E. 3. 1, 2.* 30 (f) *Ass. pl. 49.* two were jointly convicted in the King's Bench, in a Bill of Trespass of Rascous done in *Middlesex*, to the Damages of 40<sup>l.</sup> who join'd in Arraint, and there it is held, That though the Fine and Imprisonment is several, yet forasmuch as the Pl. has joined them in one Action, they may well join in an Arraint against him. And so (g) *F. N. B. 75. g.* in a Court Baron, if two are amerced for one Trespass outrageously, they shall not join in a Writ *De moderata Misericordia*, for they should be severally amerced, altho' the Trespass is committed jointly. (h) So in a Plaint sued by two, if they are Nonsuit, the Amerciament shall be several. And it must be known when

(a) *Flow. 519. b. 212. a. 520. a. 1 Rol. Rep. 73. Palm. 380. Owen 384. Co. Lit. 227. b. 2 Rol. 715. 1 Anderf. 185. cap. 119. 1 Leon. 132. 133. c. 181. Dyer 37. pl. 45. 55. pl. 104. 218. pl. 4. 78. pl. 41. Cro. Jac. 214. Gildsb. 93. F. R. & Stud. lib. 2. c. 521. Br. Juof 2, 12, 13, 41, 51, 14 H. 7. 20, 30, 34. Br. Verdict 19, 108. 14 H. 7. 1. b. 20 H. 7. 3. 21. 15 H. 7. 1. b. Br. Repleader 47. 35 H. 6. Br. Examination 17. 39 A8. 19. Br. decies tantum 54. Br. Imprisonment 92. (b) 8 Co. 39. 40 b. 1 Rol. Rep. 73. (c) Cr. Car. 55, 178. (d) Ma. Chart. c. 14. 2 Infl. 284. F. N. B. 75. c. 8 Co. 38. b. Scid. Table-talk. Fines 61. (e) 1 Rol. Rep. 33, 74, 506. 8 Co. 38. b. Dyer 211. pl. 31. Br. Lect 36. (f) Fitz. Joinder in Action 7. 1 Rol. 74. 75. Br. Joinder in Action 80. Hughs Abr. 1108. Cr. Car. 55, 178. (g) Hughs Abr. 1108. 1 Rol. Rep. 74. (h) F. N. B. 75. 1 Rol. Rep. 74.*

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Judgment is given in the King's Bench or in the Common Pleas, &c. against two & *ideo in Misericordia*, yet when it is affeſſed by the Coroners in the Country, the Amercement ſhall be ſet upon them ſeverally. *Vide* (a) 1 H. 6. 7. b. and *Grefſy's Caſe in the Eighth Part of my Reports* 39. But if a Jury appear at the Bar, and the Plaintiff is Nonſuit, the Judges may amerce the Plaintiff; and the Jury who are of the ſame Country may aſſeſſe it, as it is held (b) in 18 E. 3. 13. a. And (c) there is a Difference as to this Purpoſe, betwixt a Fine and an Amercement: For the Fine is aſſeſſ'd by the Court, and therefore need not be aſſeſſed; but an Amercement ought to be aſſeſſed by the Country, and therewith agree (d) 7 H. 6. 12. b. (e) 10 H. 6. 7. a. *Vide Grefſy's Caſe*, and *Plo. Com. Weldon's Caſe*, 519. And when there are divers Defendants, and they are by Law to pay a Fine, then the Judgment is, *ideo capiantur*, and that is for the Fine: For the Imprifonment is but till the Fine is paid, and therewith agree 17 E. 3. 73. a. 9 E. 3. 6. *Vide* 34 H. 6. 24. a. and that is the Reaſon, that when the Entry is *ideo capiantur*, that he ſhall not be amerced, becauſe he is to pay a Fine. And altho' the Entry is *ideo capiantur*, yet it ſhall be taken *reddendo ſingula ſingulis*; for the Damages of the Party they ſhall be taken by a joint *capias ad ſatisfaciendum*, but for the Fine due to the King, they ſhall be taken ſeverally by *Capias pro Fine*, as it appears before that they ſhall be ſeverally imprifoned, and ſeverally fined, for it is not reaſonable that the one ſhould be imprifon'd, till the other has paid his Fine. And in all Caſes, when the Means to attain to the Fine is ſeveral, the Fine it ſelf ought to be ſeveral; and yet in ſome Caſes the Fine or Amercement ſhall be impoſed upon divers jointly, ſometimes upon a Country, ſometimes upon an Hundred, and alſo upon a Town, &c. As for the Eſcape of a Murderer, &c. *Vide* (f) 22 E. 3. *Corone* 238. 2 E. 3. *Ibid.* 147. 3 E. 3. *Ibid.* 302, 316, &c. & 10 E. 3. 10. a. and that is for the Incertainty of the Perſons, and for the Inſiniteneſs of the Number. (g) And it was obſerved, That of Courts, ſome may fine and not imprifon, as the Court Leet; ſome can neither fine nor imprifon, but amerce, as the Court of the County, Hundred, Court Baron, &c. For no Court can fine or imprifon which is not a Court of Record, as *F. N. B.* 73. b. If a Man is convicted before the Sheriff in a Writ of (h) Recaption, the Defendant ſhall be but amerced; but if he is convicted in a Writ of Recaption before the Juſtices, *f.* in a Court of Record, the Def. ſhall be fined and imprifoned; but then he ſhall not be amerced, and therewith agree, 9 H. 5. 1. b. Some may imprifon and not fine,

(a) 1 H. 6. 7.  
8 Co. 40. a.

(b) 8 Co. 39. b.  
(c) Co. Lit. 126. b.  
Br. Amerciam.  
25, 65. Kclw.  
65. a. Palm. 7.  
8 Co. 39. a. Cr.  
Car. 275. Cart.  
28. 2 Inſt. 196.  
10 H. 6. 7. b.  
Cr. El. 241.  
1 Rol. Rep. 74.  
(d) 8 Co. 38. b.  
2 Rol. Rep. 3.  
7 H. 6. 12. b. Br.  
Det. 85. Br. Leet  
143, 36. 1 Rol.  
218, 219.  
(e) Br. Ley.  
Gager 99. Br. A.  
merciament 50.

(f) 1 Rol. Rep.  
349, 359, 756.

(g) 1 Rol. Rep.  
359, 74. 8 Co.  
38. b. Hughes  
Abr. 1071.

(h) 8 Co. 60. b.  
41. a. F. N. B.  
73. d. 120. a.

as the Constables at the Petit Sessions, for any Affray made in Disturbance of the Court, may imprison but not fine. Some Courts can neither imprison, fine, nor amerce, as Ecclesiastical Courts held before the Ordinary, Archdeacon, &c. or their Commissaries, and such as proceed according to the Canon or Civil Law. *Vide Brook, Tit. Error 177.* And some Courts may fine, imprison, and amerce, as the Case requires, as the Courts of Record at *Westminster*, and elsewhere.

It was also resolved, That the (a) Reasonableness of the Fine shall be judged by the Justices; and if it appears to them to be excessive, it is against Law, and shall not bind; for *excessus in re qualibet jure reprobatur communi*, as excessive Distress is prohibited by the (b) Common Law, 41 E. 3. (c) 26. a. (For the Act of (d) *Articuli super Chartas*, cap. 12. *Non capiatur gravis districtio*, extends to the King only.) (e) *Vide 27 Ass.* 51. (f) 28 *Ass.* 50. (g) 11 H. 4. 2. a. b. (h) 8 H. 4. 16. And it appears by the Stat. of W. (i) 1 cap. 35. That excessive or outrageous Aid is against Law, and therewith agree *Glanvil, lib. 9. fol. 70.* F. N. B. 82. 75. and *Magna Charta, cap (k) 14.* Excessive Amercement is against Law. (l) *Nullus liber homo amercietur, &c. Nisi secundam quantitatem delicti*; 10 E. 4. 10. a. acc. The same Law (m) in respect of the Multiplicity, is against Law. (n) 27 *Ass.* 50, 51. F. N. B. 178. a. b. (o) 9 H. 7. 3. a. b. An Assise lies of outrageous Distress. 14 Henry 4. 9. a. An excessive Fine at the Will of the Lord, shall be said Oppression of the People. And if (p) Tenant in Dower has Villains or Tenants at Will, who are rich, and the by excessive Distress and Fines makes them poor and Beggars; it is by the Law adjudged to be against Law, and to be waste, as appears in 16 H. 3. *Tit. Waste* 135. 16 H. 7. & F. N. B. 60. b. & *Registr' Judic'* 25. (q) Waste lies in *exulando Henricum & Hermanum, &c.* *Naiivo, quorum quilibet tenuit unum Mesuagium & unam virgatam terra in villa de T. per graves & intolerabiles districtiones*: by which it appears, That such intolerable Oppression of poor Villains, and Tenants at Will, is *ad exheredationem* of him in Reversion, and against the Common Law of the Land. And in the *Fourth Part of my Reports, fo. 27. b.* (r) If Fines of Copyholders of a Manor are uncertain, the Lord can't demand, or exact excessive and unreasonable Fines; and the Copyholder may deny to pay it, and the Reasonableness of the Fine shall be determined by the Justices, &c. *Quam rationalis debet esse finis non definitur, sed omnibus circumstantiis inspectis ex Justiciariorum discretione.* And so it was adjudged in *Com' Banco* between

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(a) *Stallon*

## RICHARD GODFREY's Case. PART XI.

(a) 13 Co. 7.  
2 Rol. Rep. 75.

(a) *Stallon* Plaintiff and *Brady* Servant of *Thomas Willows* Lord of the Manor of *Fendilton* in the County of *Cambridge*, *Pascha 9 Jac. Rot.* 1845.

As to the second Point, it was resolved, That when a (b) Fine is impos'd against Law, as joint, where it shou'd be several, as in the Case at Bar; or if it is unreasonable, it may be avoided by Plea, and Judgment of the Court in which the Suit depends, for other Remedy is not given to him.

(b) 1 Rol. Rep.  
75. Hughs Abr.  
167.

As to the third Point, it (c) was resolved, That the Avowant could not distrain for this Certainty of Leet, because it was against common Right, and for the private Advantage of the Lord of the Leet, which the Lord could not have without Prescription; and therefore as he ought to prescribe in the Principal, so he ought to prescribe in the Distress. In 6 E. 3. 10. a. the Case was, That *William* brought a Replevin against *John*, of taking of his Cattle wrongfully, the Defendant avowed, that the said *John* was chief Deciner of the Hundred (which is intended of the Leet) of *F.* And said, That the Lord of the Hundred had every Year two Marks, to receive the Moiety at the Hundred held next after the Feast of *Easter*, and the other Moiety at the Hundred held next after the Feast of *St. Michael*, and that the Lords had always been seised of the said Prestation, to receive it by the Hands of the chief Deciners; and further said, That they levied the said two Marks of all the Resiants within the Precinct of the Hundred, according as they had Lands and Goods; and he and all the chief Deciners had so levied it Time out of Mind, and to one Mark, that the Plaintiff, &c. was assessed according to his Lands and Goods which he had, in eight Pence; and for the eight Pence behind, he avowed: In which it was observed, That the said two Marks being against common Right, he prescribed to levy it, and there *Sir William Herle* said, That in many Places of *England*, those which are in Dozein, shall make the Prestation, and the Freeholders not. In 11 H. 4. fol. 89. a. b. & Resid 13 H. 4. 9. a. b. in a Replevin, the Defendant as Bailiff of the Abbot of *Cerve*, because the Abbot is seised of the Hundred of *Tosecombe* in the County of *Dorset*, and has there an Hundred from three Weeks to three Weeks, and has three Leets every Year; one to be held 15 *Mich.* the second the Morrow of *Hillary*, and the third at *Hockday*; to which Leets come three Deciners with their Dozein, and present Things presentable, whereof one is called the first Dozein, the second, the second Dozein, and the third, the third Dozein; who with their Deciners yield *de certo Lete*, a certain Rent at the Leet Days; and because the Dozeiners came not the Morrow after *Hil-*  
*lary.*

(c) Hughs Abr.  
167. 1 Jones 133.  
1 Rol. Rep. 33.  
35. 75. 76.  
Raym. 204.  
Larch 95, 130.  
1 Vent. 105.  
3 Bulstr. 323.  
Hughs Abr.  
1910.

1 Rol. Rep. 76.  
2 Inst. 71. Fitz.  
Avowry 57.  
Er. Distress 18.  
Er. quc Estate 9.

*lary, Anno 10 Regis nunc*, the same Dozein was amerced 6 d. and also that the Rent *de certo Letæ* was not paid at the Leet held after *Easter*, the Deciner was amerced with all the Dozein, and so for the two Causes he avowed : There *Terwit* took Exception to the Avowry, that the Lord should not amerce the Dozein for Non-payment of the Rent : To which *Sir William Therninge*, Chief Justice, who gave the Rule, answered, That it should be amerced in that Case where the Sum is payable at the Day of the Leet : 2. The Court there held clearly, that where a Man of a Dozein is amerced in the Hundred, or Leet, that his Cattle shall be taken, *i. distrained* well enough in what Place soever they are found within the Hundred, altho' it is in another Dozein. *Vide 15 Eliz.*

(a) *Dyer 322. a.* For an Amercement in a Court Baron, the Lord shall not distrain without Prescription. *Vide (b) 44 E. 3. 13. a.* But (c) for a Fine, and all Amercements in a Leet, a Distress is incident of common Right. *Vide Gresley's Case* aforesaid, *fo. 41. a. b.*

As to the fourth Point, Admitting that he may distrain for the Certainty of the Leet, and that the Imposition of the Fine is void ; and he has avowed the taking of the same Beasts for both Causes, and (d) it appears of his own shewing, that he has no Cause for one, if he should have a Return, or not, was the Question. And it was objected, That in such Case he should not, because the Avowant is an Actor, and the Avowry is in lieu of an Action : And (e) if a Writ is brought for two Things, and it appears by the Plaintiff's own shewing, that he has no Cause for one, the whole Writ shall abate ; for they said, That the Writ which is the Foundation of the Action, ought to comprehend Truth ; and if it is apparent, that there wants Truth in the Writ, the Writ shall abate : and therefore some took a Difference, when one brings an Action for two Things, and it appears in the Writ that he mistakes the Truth of the Matter of one of them, there the whole Writ shall abate ; as if a Man brings an Action of Debt, or avows for Rent at two Days, and one Day is not come, it was said, the whole Writ or Avowry shall abate : But when the Demandant mistakes the Law for one of them ; as if Waste is assigned in Oaks and Blackthorn, there is a misprision of the Law. Others took a Difference betwixt General Writs, as Dower, *Unde nihil habet*, Assise, Waste, &c. and therefore if the Demandant in Dower, makes her Demand to be endowed of Land and of (f) Common *sans* Number ; or if he brings an Assise of Land and of an Annuity ; or if he assigns Waste in Timber and Blackthorn, in such Cases, forasmuch as the Writs are general,

(a) 1 Rol. 366.  
367, 666. Kel. 66.  
Pl. 8. 3 Leon. 38.  
1 Leon. 190.  
Cr. Eliz. 748.  
*Dyer* 322. Pl. 23.  
Dr. & Stud. 74. 2.  
Hughes Abr. 167.  
1910. Hob. 206.  
(b) Fitz. Avowry  
73. Br. Avow. 25.  
(c) Cro. Jac. 382.  
1 Rol. Rep. 201.  
665. Cr. Eliz.  
414. Moor 356.  
Dr. & Stud. 74. 2.  
(d) 1 Rol. Rep.  
77. Hob. 133.

(e) Anrea 5. b.  
1 Rol. Rep. 34.  
77. 36 H. 6. 28. 2.  
Hob. 164. 178.  
199. Yel. 71. 148.  
Palm. 524. Cr.  
Jac. 70. 104. Cr.  
Car. 375. Cr. El.  
325. 1 Brownl.  
68. 1 Sand. 285.

(f) Cr. Car. 307.  
1 Jones 315.  
1 Rol. 675. Co.  
Lit. 303. 32. 2.  
Perk. Sect. 307.



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general, it shall stand for so much as may be maintained by Law, for the Writ remains true, but in such Case the Count, Plaint, or Assignment shall abate for the rest; but it is otherwise when the Writ comprehends Certainty, and it appears that the Writ doth not lie for part, there the whole Writ shall abate. Know Reader, That the Law doth not warrant these Differences in the whole, but the common and true Rule and Difference is; where a Man brings an Action, be the Writ general, or certain and particular; and he demands

(a) 1 Sand. 285.  
Moor 281. Cr.  
Jac. 104. Pl. 40.  
1 Roll. Rep. 11.  
Hob. 178, 279.  
Stiles 175. a. Kel.  
31. b. Plow. 424. b.

(a) two Things, and it appears of his own shewing, that he can't have an Action, or better Writ for one of them; there the Writ shall not abate for the whole, but shall stand for that which is good: But when a Man brings an Action for two Things, and it appears, that he can't have this Writ for one Thing, but may have another in another Form, there the Writ shall abate for all, and shall not stand for that which is good. And therefore, if Executors bring a special

(b) Raft. Ent.  
640. Savil 118.  
Latch. 167.  
Poph. 189. Cr.  
El. 377, 384, 387.  
Own. 156.  
Moor 267.

Writ upon the Statute of (b) 4 E. 3. cap. 7. for breaking the Testator's Close, and carrying away a certain Sum of Money *in vita Testatoris*; and altho' it is certain, and appears of their own shewing, yet forasmuch as for the breaking of the Close, they can't have an Action, the Defendant was ruled

(c) Fitz Brief  
229. Br. Brief  
118. Br. Execu-  
tors 120. Br.  
Joinder in Acti-  
on 26.

to answer to the Money in (c) 11 H. 4. 3. b. (d) 38 H. 6. 24. 25. In Detinue of a Box sealed with Charters and Muminents concerning the Plaintiffs Inheritance, the Plaintiff declar'd of four Charters come to the Defendant's Hands by Trover, and entituled himself well to three, and it appeared by his Declaration that the fourth concern'd Land, whereof the Plaintiff and his Wife were jointly seised, as appeared by his own shewing, but because that went to the Action as to the Husband (for he alone, in such Case, can't have other Action;) for this Cause it was adjudged, That the Writ should stand good for the Remnant, (e) 9 H. 6. 54. a. (f)

(d) 18 H. 6. 24. b.  
25. a. Fitz Deti-  
nue 21. Br. Char-  
ters de Ter. 47.  
Br. faits 51.  
Hard. 166. Br.  
Reservation 18.

(e) Fitz. Detinuc  
6. Hob. 279. Br.  
Brief 18. Br.  
Charter de Ter.  
6. 9 H. 6. 46. a.  
(f) 16 H. 7. 15. a.  
Hob. 280.

16 H. 7. 15. a. If a Man brings a Formedon of Land, and of an Advowson, altho' the Writ is certain, and it appears of his own shewing, that a Formedon does not lie for the Advowson, yet forasmuch as it goes to the Action of the Writ, as to

1 Rol. Rep. 77.  
Hob. 133.

that the Writ shall stand good for the Land. 9 H. 7. 4. b. & 16 H. 7. 5. a. 37 H. 6. 25. b. So if a Man makes Avowry of the taking of Distress for divers Rents arear, and it appears upon his own shewing, that Parcel is not yet due, yet the Avowry is good for the Remnant, and shall not abate in the whole. *Vide* 44 E. 3. 13. a. 48 E. 3. 4. b. & 5. a. 22 Eliz.

Dyer 369, 370.  
Pl. 56. 2 Bull.  
28. 5 Co. 108. a.  
1 Rol. 784.  
10 Co. 130. b.  
132. a. 11 Co.  
56. a. F. N. B.  
139. Cr. Jac.  
104.

Dyer 369. 370. A Man brought a Writ of *Ejectione custodie terra & heredis*, and the Parties pleaded to Issue, and it was found for the Plaintiff, and the Plaintiff had Judgment of the Land only, for it lies not of the Heir.

2 E. 2. Gard. 4.  
Hard. 100.

*Vide*

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*Vide* 8 E. 2. Brief 847. 41 E. 3. Brief 543. 26 E. 3. 64.  
9 H. 6. 10. 46. 11 H. 6. 5. 22 H. 6. 14. 26 H. 6. *Attaint* 4.  
6 E. 4. 7. 8 E. 4. 3. 18 E. 4. 27. 21 E. 4. 24. But if a Man  
brings a Writ of Entry in the Nature of an Affise of two  
Acres, where of his own shewing for one Acre he ought to  
have a Writ of Entry in the *Per*, or in the like Cafes; there  
the whole Writ shall abate, because he may have a better  
Writ as to one Acre; and that doth not extend to the Action,  
but to the Writ only, 16 H. 7. 5. *acc.* *Vide* 20 H. 7. *p. ul-*  
*timo*. And Judgment was given for the Plaintiff against the  
Avowant.

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Mich.

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## Mich. 12 Jacobi Regis.

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### RICHARD LIFORD'S Case.

1 Roll. Rep. 95.  
Hard. 49. 3 Ke-  
ble 412. Hughs  
Abr. 1026, 1569.

**I**N Trespass by *Thomas Stamp* Gentleman Plaintiff, against *John Clinton* Defendant, which began *Trin. 12 Jac. Regis. Rot. 343.* and declared (*inter alia*) for breaking his Clofes, called *Wittenhams* in *Peasmere*, in the County of *Berk*; the Defendant pleaded, *quod quidam Johan' Liford defunct' pater Richardi Liford*, was seised of a Capital Messuage, called *Peasmere Farm*, and of divers Lands and Tenements thereunto belonging, in *Peasmere* aforesaid, whereof the said Clofes called *Wittenhams* were Parcel, &c. in his Demesn as of Fee, & ultimo *Julii anno 4 Reg. nunc* by his Deed indented demised to the said *Thomas Stamp*, and one *Mary Parker* the Tenements aforesaid, in which (*Excepto uno cotagio vocat' the Forge, ac omnibus arboribus, quercubus, ulmis, & fraxinis ad tunc crescen', ultra crescentiam 21 annorum (arboribus decas non existen' macremium tantummodo reservat' &c.) habend' & tenend' tenementa prad' cum pertin' unde, &c. (except' pra-except')* *presat' Thomæ Stamp & Mariæ Parker pro & durante vita naturali ipsius Thomæ & Mariæ & eorum diutius viven', virtute cujus dimissionis iidem Thomæ & Mariæ postea, & ante prad' tempus quo, &c. in Tenementa prad' cum pertin' in quibus, &c. intraver' & fuer' & adhuc existunt inde Seisiti in Dominio suo ut de libero tenemento pro Termino vitarum suarum.* And the said *John Liford* being seised of the Reversion, 8 *Jan. anno Reg. nunc Sexto*, by his Deed indented for him and his Heirs, covenanted with *J. Winchecomb* and *Vincent Smith*, as well in consideration of a Marriage to be solemnised *inter prad' Rich' filium & hered' apparent' prad' Johan' Liford & Johan' Shepreve*

Cr. Car. 437.

as in consideration of paternal Love and Affection to the said *Richard*, and his other Sons; that he and his Heirs *Extunc in posterum starent & essent seisti de Tenem. prad' cum pertin' superius dimissis*, to the Use of the said *Rich.* and the Heirs Males of his Body; and afterwards to the Use of *Thomas* his Son, and the Heirs Males of his Body; and with the like Remainers to *Daniel* and *Nath.* his Sons, leaving the Reversion of the Fee-simple in himself: By Force whereof, and of the Statute of *Uses*, the said *Rich.* was seised of the Reversion of the Tenement in Tail, and the said *J. Clinton* by his Command enter'd into the said Closes called *Wittenhams*, to shew to one *Henry Lawrence* and *William Lawrence* certain Oaks then *crescen' in Claus. prad'*, which at the Time of the Demise were above the Age of 21 Years & *qua ad prad' R. Liford de jure pertinebant*, and there then sold to them six Oaks, &c. *prout ei bene licuit, qua est eadem fractio, &c.* and demanded Judgment *si Alitio, &c.* Upon which Plea the Pl. demurr'd in Law: And this Case was divided into two general Questions, the 1. What Thing was excepted by the Exception of the Trees? 2. What Thing pass'd by the said Conveyance of the Reversion?

And that the Trees should not pass to *R. Liford*, 4 Objections were made: 1. That by the Exception, the Trees remain as Chattels in the Lessor: The 2. admitting, that by the Exception the Trees remain in him as an Inheritance; then by the Exception the Soil itself is excepted to the Lessor: The 3d, That a Freehold or Inheritance in Possession can't be by the Rules of the Law, Parcel of the Reversion expectant upon the Freehold: The 4th, That by the said Covenant, *J. Liford* covenanted to stand seised *de Tenem' prad' cum pertin' superius dimissis*, and therefore *R. Liford* could not have more then were demised, and the Trees were not demised. As to the first they conceived, That by the Exception the Trees were Chattels in the Lessor, divided in Law from the Freehold and Inheritance of the Land; for when a Man demises Land for Life, the Property of the Trees is in the Lessee, and the Lessor has but a Possibility to have them again, *s. If they remain annexed to his Inheritance when the Lessee for Life dies, and therefore it is resolved by the whole Court in the Abbot of Torres Case, in 21 H. 6. 40. b.* That if a Man makes a Lease for Life of his Land, he can't give the Trees to a Stranger, because he has but a Possibility, and by consequence when he excepts them to himself, they remain in him as Chattels: And it is held in 12 E. 4. 8. a. That if a Man makes a Lease for Years, and the Lessee sells the Trees, the Lessor can't take them. *Vide 13 H. 7. 9. b. 21 E. 4. 52. l.* and if the Lessor sells the Trees, the Lessee shall have them as it is held in 44 E. 3. 44. b. Which Books and many others prove, That the Property of the Trees is in the Lessee for Years, *a fortiori* in the Lessee for

Br. done & re-  
mainder 13.  
4 Co. 62. b. Pasm.  
328. Cr. Car.  
274. 2 H. 7. 14. b.  
1 Rol. Rep. 97.  
Moor 9.

Br. Yresp. 430.

11 Co. 82. 2.

RICHARD LIFORD's Case. PART XI.

for Life; and therefore when the Lessor excepts them, he shall have them as Chattels severed from the Land. And they rely'd much upon the Book in 2 *El. Dyer* (a) 184. in *Daunsey's Case*, where Question is made, when Trees are excepted in Case of Lessee for Years, whether they should be Chattels in the Lessor; of which they would never have made a Doubt, in Case of Lessee for Life; for the Law makes a great (b) Difference between an Exception in Case of a Lease for Years, in the Case of a Lease for Life; and therefore if a Man makes a Lease for Life of a Manor, excepting one Acre, this Acre, during the Lease, is not Parcel of the Manor; for in such Case, in a real Action brought of the Manor, Exception ought to be made; otherwise it is in Case of a Lease for Years, as appears (c) 38 *H. 6.* 38. a. *Flo. Com.* 103. b. in *Fulmerston's Case* (d). So if the King makes a Lease for Life of a Manor, without speaking of the Advowson, the Advowson remains in the King as in Grofs, *quod omnes concesserunt*, as appears in (e) 38 *H. 6.* 34. b. And there it is adjudged, That by Grant of the Reversion, *habendum* the Reversion with the Advowson, the Advowson shall not pass to the Patentee; for the Advowson in such Case was severed and became in grofs as to the Fee, which 'twas said has great Affinity with the Case at Bar. 2. Admitting that the Trees are reserved as an Inheritance in the Lessor; then the Land itself, upon which the Trees grow, is thereby excepted, as it is resolved in *Ives's Case*, in the 5th Part of my Reports, fol. 11. b. *Vide* 44 *E.* 3. 22. 46 *E.* 3. 22. b. 27 *Aff.* 49. (f) 3 *H. 6.* 45. a. (g) 16 *E.* 4. 2. a. (h) 14 *H. 8.* 1. a. b. 33 *H. 8.* *Br. Reservation* 39. 6 & 7 *E.* 6. (i) *Dy.* 79. a. and then it can't pass by the Conveyance of the Reversion, for it was not any Part of the Demise, and therefore if a Man makes a Lease for Life of a Manor, excepting one Acre, and afterwards grants the Reversion of the Manor to another in Fee, the Acre in Possession shall not pass, but is severed from the Manor for ever: As if *A.* is disseised of an Acre, Parcel of his Manor, altho' the Acre in right is Parcel of the Manor, yet if *A.* enfeoffs another of his Manor, the right of that Acre shall not pass, but is severed from the Manor for ever, as it is held in (k) 38 *H. 6.* 38. a. So if a Man is disseised of a Common Appendant, notwithstanding the Disseisin, it in right is Appendant to the Manor; and yet if during the Time of the Disseisin, a Feoffment in Fee is made of the Manor, the Common is severed and extinct for ever, as it is held in 4 *E.* 3. 46. a. & *F. N. B.* 180. f. So in the Case at Bar, by the exception of the Trees, the Soil itself is excepted, wherefore it can't pass by the Grant of the Reversion. 3. It was objected, That a Reversion expectant upon a Freehold, may be Parcel or Appendant to a Freehold and Inheritance in Possession; but a Freehold or Inheritance in Possession, can't be Parcel or Appendant to a Reversion expectant upon a Freehold, as it is held in 38 *H. 6.* 38. a.

(a) 4 Co. 63. a.  
1 Rol. Rep. 96.  
Palmer 328.

(b) Co. Lit.  
324. b. 325. a.

(c) Br. comp-  
prise, &c. 28.  
5 Co. 11. b. Cr.  
El. 522.  
(d) Co. Lit.  
307. a.

(e) Br. Patents  
29. 5 Co. 11. b.  
Plowd. 152. b.  
399. a. b.

(f) 1 Rol. Rep.  
94. 95. Co. Lit.  
4. b. Perk. sect.  
643. Br. Reser-  
vation 1.

(g) Br. General  
Issue 43. Br.  
Leases 44.  
5 Co. 11. a.  
(h) Br. Trespass  
167. Br. Propert-  
ty 17. Br. Excep-  
tion 2. Br. Reser-  
vation 30.  
3 Bull. 290.  
(i) 5 Co. 11. a.

(k) 5 Co. 11. b.  
Cr. El. 522. Br.  
comprise, &c. 28.  
Plowd. 103. b.

4. The Conveyance of the Reversion doth not touch the Trees, and the Soil under them; for the said Conveyance recites the said Demise of the Land, with the Exception of the Trees, and conveys *Tenementa præd' cum pertin' superius dimiss.* and the Exception is not any Parcel of the Demise, as it is agreed in 3 H. 6. 45. 4. and therefore the said Conveyance doth not extend to the Trees excepted, and by Consequence they can't pass with the Reversion; and for these Reasons the Plaintiff ought to recover.

Perk. Sect. 643.  
Er. Reservat. 16

On the other Side it was argued by the Defendant's Council, and unanimously agreed by the whole Court, that the Plaintiff shou'd be barred.

And as to the First, it was answered and resolved, that the Trees notwithstanding the Exception, remain Parcel, and grow out of the Inheritance of the Land, and are not Chattels, nor shou'd go to his Executors, but shou'd descend to his Heir, if no Conveyance had been made of the Reversion, and that for divers Reasons. 1. The Law doth not favour Fractions and Severances of Trees from the Free-hold and Inheritance of the Land, because the Trees wou'd be thereby often wasted and destroyed: and therefore if a Man by Deed indented, bargains and sells, gives and grants his Manor of D. and all his Trees growing thereon to another, and the Deed is not enrolled according to the Statute, forasmuch as the Manor will not pass, the Trees shall not pass to the Bargainee, and so be severed from the Manor, altho' they are granted by exprefs Words, and the Grant of every one shall be taken most strong against himself, as it was resolved in 9 Eliz. Reg. and so was it held in 15 Eliz. in Andrew's Case in the Com' Pleas, which I my self heard. In 23 Eliz. Dyer 374. a Man demiseth, granteth, and

Cr. Car. 243.

to Farm letteth a Farm, &c. together with all Manner of Timber, Underwood and Hedge Rows, thereunto appertaining (except all great Oaks growing in one certain Close about the Farm-house) to have and to hold the Farm for the Term of 21 Years rendring Rent; and the Doubt was, Whether the Lessee might fell and sell the Timber-Trees not excepted, without being impeach'd for the Waste, and the Lord Dyer conceived that he might by this Word Grant, and by the Meaning of the Exception of great Oaks, &c. Also the *habendum* which conveys the Limitation for Years, doth not mention Timber, &c.

Dyer 374. pl. 18.  
1 Rol. Rep. 100.  
2 Bulstr. 6. Mo.  
831. 881. Palm.  
32. Hughs Abr.  
1741. Hobb. 234.

But *Periam*, *Windham*, and *Mead* gave Judgm. against the Def. That he could not fell the Timber, for it was not severed from the Inheritance, nor passed by the Grant. The second Reason was, That when a Man demises his Land for Life or Years, the Lessee has but a particular Interest in the Trees, but the general Interest of the Trees remains in the Lessor, For the Lessee shall have the Mast and Fruit of the Trees, and Shadow for his Cattle, &c. but the Interest of the Body of the Trees is in the Lessor as Parcel of

Hard. 43. 1 Rol.  
Rep. 100.

Postea fol. 8. b.

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Dyer 36. pl. 56.  
1 Rol. Rep. 181.

his Inheritance; and this appears in 29 H. 8. Dyer 36. where it is held in exprefs Words, That it can't be denied that the Property of great Trees, *s. the Timber*, is reserved by the Law to the Lessor, but he can't grant it without the Termor's Licence, for the Termor has an Interest in it, *s. To have the Mast and Fruit growing upon it, and the Loppings thereof for Fewel*, but the very Property of the Tree is in the Lessor as annexed to his Inheritance, and all this Word for Word appears in the said Book: And in 1 Mar. Dy. 90, it is also held, That the Lessee shall have the Fruit of the Trees, and the Branches for Fewel and Inclosure of Fences.

Dyer 90. pl. 8.  
10 H. 7. 2. b. 3. a.

And in 10 H. 7. 3. a. the Lessee has no Interest in the Trees, but to lop them, or for Shadow for his Cattel, So that there it is said, That the Lessee has Interest in the Tree, and the Lessor also. *Vide Herlakenden's Case, in the Fourth Part of my Reports* 62. And upon Consideration of these and many other Books, it was resolved, That when no Exception is in the Lease of the Trees, the Lessee has such particular Interest in the Tree as is aforesaid, and the Inheritance of the Tree is in the Lessor: and by this Difference all our Books are well reconciled: which Difference also appears in the Books themselves, for in Wast against Lessee for Life or Years in Case of felling of Trees, it is said in the Writ to be *Ad exheredationem* of the Lessor, and the Lessor after he has made a Lease for Life, may by Deed grant the Trees or reasonable Estovers out of them to another and his Heirs, and it shall take Effect after the Death of the Lessee, and such Grant by the Lessor is good in Respect of the Inheritance which he has in such Case in the Trees, and the Lessor may by Word command the Lessee to fell the Trees, as

Postea 81. b.  
Cr. Jac. 459. Cr.  
El. 17.

it is held in 18 E. 3. 54. & 2 H. 7. 14. b. But what is said in the said Book of 21 H. 6. 46. b. is true, That such Gift to a Stranger, is void, during the Estate for Life, for the particular Prejudice that may accrue to him who has the Estate for Life: and in 50 E. 3. 10. a. b. in *Frankley's Case* it is said, That at the Common Law it was never seen that any Tithes should be paid of great Trees, because, they are Parcel of the Inheritance, and it is provided by the Statute of 45 E. 3. 3. that in such Case a Prohibition lies, as before has been used, which proves that the Common Law was so, before the making of the Stat. So it was held *Pascha* 42 *El. Reg. inter Sampson & Worthington in C. B.* That if Timber Trees have been usually topped and lopped no Tithes shall be paid of them, for as the Law privileges the Body of the Tree being Parcel of the Inheritance, so it privileges the Branches also: And therewith agrees *Doe & Stud.* 175. So if a Man sells his Timber Trees, Tithes shall not be paid, for the Germens which are growing *ex radicibus seu stipitibus*, in Re post that the Root is Parcel of the

Dyer 91. 2. 4 Co.  
62. b. Cr. Car.  
274. 10 H. 7. 2. b.  
3. a. Moor 9.

2 Inst 642. 1 Ro.  
Rep. 100. Plow.  
470. b. Cr. El. 1.  
Moor 907.

1 Rol. 640. Cr.  
El. 478. Plow.  
470. b. Moor  
762.

Postea 81. a.  
1 Rol. 190. 640.  
Cr. El. 55.

Inheritance

Inheritance, as it was held, *Pascha 29 Eliz.* in this Court: So if a Timber Tree becomes *arida, sicca, & non portans folia nec Fructus in estate, nec existens Maeremium*, and the Owner fells it, no Tithes shall be paid thereof, for the Inheritance which was once in him; which Privilege extends to it when it becomes Dotard, as it was adjudged in *C. B. Hill 2. Jac. Rot. 229. inter (a) Brook and Rogers*. So for the (a) Bark of Oaken Timber, no Tithes shall be paid, for the Reason aforesaid, and therewith agrees *Dobt. and Stud. 175. 643. 1 Rol. Rep. ca. 1273. 2 Inst. 100. Cr. El. 477. Cro. Jac. 100.* But for (c) Acorns Tithes shall be paid, because they grow yearly, as appears in the *Registr' fol. 49.* And a Man may have an Inheritance in Fee-simple in Lands, as long as such a Tree shall grow (d) 27 *H. 8. 29. b.* because a Man may have an Inheritance in the Tree it self. *Vide 46 E. 3. 1. b. in Trespass, 32 H. 6. 2. 20 H. 6. 22. b. 5 H. 4: 2.* It is enacted by the Stat. of (e) *W. 2. cap. 22. Cum duo vel tres tenant boscum, &c.* That if one (f) Tenant in Common in Fee-simple commits Waste in the Trees, the other shall have an Action of Waste, and the Writ shall say *ad exheredationem*, as in 29 *E. 3. fol. 19.* if one Coparcener before Partition, makes a Feoffment to another, and one of them commits Waste in the Trees, an Action of Waste lies, and that was provided for the Preservation of Trees, and *F. N. B. 49. (g)* If a Parson of a Church and one *A.* are Tenants in Common of a Wood, and *A.* endeavours to commit Waste, the Parson for the Preservation of the Timber Trees, shall have (h) a Prohibition against him, that he shall not commit Waste, and the Reason thereof as the *C. J.* said, was, That if the Parson of a Church will waste the Inheritance of his Church to his private Use in felling Trees, the Patron may have a Prohibition against him; for the Parson is seised as in the Right of his Church, and his Glebe is the Dower of his Church, for of it he was endowed; and so speaks many ancient Records, and so forasmuch as a Prohibition lies against him, Reason requires that he shou'd have the like Remedy against him who holds in Common with him, and thereupon a notable Resolution in the Parliament held at *Carlisle, (i)* 35 *E. 1.* was cited to this Effect; for there upon Complaint made (in these Words) Will our Lord the King understand, That Sir *Anthony B. of Durham*, wastes and destroys all the Wood appertaining to his Church in the Bishoprick of *Durham*, by giving, and selling, and ill keeping, and by erecting Forges of Iron and Lead, and burning of Coals, &c. wherefore if our Lord the K. who is Patron of the Church puts not Remedy therero, the *C.* aforesaid will be disinherited and impoverished, in Prejudice of our Lord the King in his Crown, and of the Chapter of *Durham: Ita responsum est; Inhibeat per breve de Cancellar' Episcopo & Min' suis ne faciant vastum de content' in petit'* by which it appears That the Parl. refer'd

(a) Hughes Abr. 691. Moor 908. ca. 1273. 2 Inst. 643. 1 Rol. Rep. 100. Cr. El. 477. Cro. Jac. 100. 1 Rol. 640. Postea 81. 2 (b) 1 Rol. Rep. 100. 1 Rol. 640. 2 Inst. 643. Doct. & Stud. 174. b. (c) 1 Rol. 640. 1 Inst. Rep. 100. 2 Inst. 643. (d) Plowd. 557. 1 Rol. Rep. 101. (e) 2 Inst. 403. (f) Co. Lit. 200. b. 247. b. Moor. 1. 21 E. 3. 29. a. b. 2 Inst. 403.

(g) 1 Rol. Rep. 100. F. N. B. 49. J. 59. D.

(h) Hob. 36. 2 Bullstr. 279. 2 Rol. 813. 1 Rol. Rep. 864. Godb. 259.

(i) Ryley's placit. Parliament. 335. 1 Rol. Rep. 866. 100, 167, 335. 2 Rol. 813. 2 Bullstr. 279. 11 Co. 72. b.

Postea fol. 72. b.



it to the ordinary Remedy of the Common Law by Writ of Prohibition in such Case: And *Mich. 23 E. 1. inter adjudicata coram Rege, Hunt. fol. 83. in Thesaur' Scaccarii sic adjudicatur, quod Ecclesia est infra etatem & in custodia domini Regis, qui tenetur jura & hereditates ejusdem manutenere & defendere: Et Rot' Patent' An. 14 H. 3. M. 8. Archiepiscopus Dublin fecit finem de 300 marcis pro deafforestatione foreste Archiepiscopatus sui. Vide 2 H. 4. 3. b.* If a Bishop or Archdeacon abates and fells all the Wood that he has, he shall be deposed as a (a) Dilapidator of his House, 29 E. 3. 16. a. acc'. Vide 27 Ass. pl. 10. 20 H. 6. 46. a. 10 E. 4. 19. And the Treatise entituled, *Ne rectores profernunt arbores in cœmisterio*, which is but a Declaration the Common Law, in these Words, *Prohibemus ne Ecclesiarum rectores arbores in cœmisterio crescenti presumant profernere indiscrete, nisi cum Cancellus Ecclesia necessaria indiget refectione, &c.* And it is regularly true, (b) *Meliorum conditionem Ecclesia facere potest pralatus, deteriorum nequaquam.*

As to 2. Objection, a Difference was taken betwixt a (c) Wood which may be demanded in a *Præcipe* by the Name of so many Acres of Wood, and Trees growing out of any Wood which can't be demanded in a *Præcipe* by any Name but by the Name of Land or Pasture, &c. where they grow: For if such a Wood whereof a *Præcipe* lies, is Parcel of my Manor of G. and I lease my Manor excepting Woods, thereby the Soil it self is excepted, and in a *Præcipe* brought of the Manor, an Exception ought to be made of so many Acres of Wood; But in such Case (d) if I except all my Trees which grow out of any Wood, but upon Land or Pasture, there by the Exception of the Trees, the Soil it self is not excepted, but sufficient Nutriment out of the Land is reserved to sustain the Vegetative Life of the Trees, for without that, the Trees which are excepted, can't subsist, but: if the Lessor fells them, and by the Lessee's Licence grubs them up, in such Case the Lessee shall have the Soil; for (e) *cessante causa cessat effectus*. And this Difference may be collected out of *Ive's Case* in the 5 Part of my Reports, fol. 11. Vide 14 H. 8. 1. a. b. If I (f) by Deed grant all my Trees within my Manor of G. to one and his Heirs, the Grantee shall have an Inheritance in them, without any Livery and Seisin. Vide Sir (g) Fr. Barrington's Case in the 8 Part of my Reports, fol. 137. (h) And in a *Præcipe* brought against Lessee for Life where the Trees are excepted, you need not in such Case except the Trees, because no *Præcipe* lies of them, but they shall be recovered by him who has Right Paramount by the Recovery of the Land: Vide for the said Rule of Exception, (i) 4 E. 3. 48. 17 E. 3. 62. 10 H. 7. 17. F. N. R. 201, &c. And by this Differ. apparent in our Books they all are well reconciled.

And

(a) Godbolt. 259. Postea 98. 1 Rol. Rep. 86. 167. b. Br. deposition. 1. 9 E. 4. 34. a. 11 Co. 72. b.

(b) Co. Lit. 2. b. 102. b. Hawk. Max. 4. Wing. Max. 4.

(c) 1 Leon. 49. Cro. Jac. 487. 488. 1 Rol. Rep. 97. 99. Co. Lit. 4. b. Dyer 19. a.

(d) 44 E. 3. 34. b. Perk. Sect. 642. 643. 1 Rol. Rep. 98. Cro. Jac. 487. 488. 5 Co. 11. a.

(e) 13 Co. 38. Co. Lit. 76. a. 78. b. March. 9. 2 Inst. 203. Dav. 3. Moor 182. Hawks Max. 75. Wing. Max. 20. (f) 2 Anderf. 51. Br. Trepaits 167. Br. Leaf 44. Br. Reservation 30. Br. Except. 2. Br. Property 17. 48. 1 Rol. Rep. 96. 100. Cr. El. 521. 522. 14 H. 8. 2. b. (g) 1 Rol. Rep. 97. 99. (h) Blowd. 104. a. 5 Co. 11. b. (i) 1 Rol. Rep. 97. 99. F. N. B. 201. b.

And in the said Exception 5 Things were observed: 1. That notwithstanding the Exception, they remain as Parcel of the Inheritance: 2. That the Soil it self is not excepted; but sufficient Nutriment for the Growth of the Tree: 3. That the Lessee shall have the Pasture under the Tree, as in 4 E. 6. *Tit. Waste, Br. 136.* Nothing shall be recovered in Waste, but the Circuit of the Root, and not the Latitude of the Branches: 4. That the Lessee shall have all the Benefits of the Trees: And 5. the Young of all Birds that breed in the Trees, and the Fruits. And it was resolved, That altho' *fictione juris quoad* the Lessee the Tree is divided from the Freehold, yet *in facto* and Truth, as to all others it is Parcel of the Lessor's Inheritance: For it was said, That Timber Trees can't be fell'd with a Goose-quill, as if Tenant in Tail sells the Trees to another, now they are a Chattel in the Vendee, and his Executors shall have them, and in such Case *fictione juris* they are severed from the Land, but if Tenant in Tail dies before actual Severance, as to the Issue in Tail, they are Parcel of his Inheritance, and shall go with it, and the Vendee can't take them, and yet *quoad* the Tenant in Tail himself, they were severed for a Time 18 E. 4. 6. a. 11 H. 4. 32. *Plo. Com. 259. a. & 438. 27 H. 8. 5. b.* So in the Case at Bar *quoad* the Lessee *fictione juris* they are divided for a Time, but *quoad* the Lessor, and all others, they remain Parcel of the Inheritance. It was also resolved, That there is a Difference betwixt the Cases which have been put, and the Case at Bar: For it is true, if a Man makes a Lease for Life of a Manor, to which an Advowson is appendant, and excepts one Acre with the Advowson, in such Case, if he grants over the Reversion, the Acre with the Advowson shall not pass to the Grantee, but they are severed and discontinued from the Manor for ever, as an Arm or other Member divided from the Body: But the Trees notwithstanding the Exception, are growing out of the Land, and have their Nutriment from it, and are not *in rei veritate* divided from it. And therefore if a Man makes a Feoffment in Fee of a Manor, excepting the Trees, and afterwards the Feoffee buys the Trees, they are again made Parcel of the Inheritance; altho' they were absolutely divided for a Time, and that appears in *Herlakenden's Case* in the 4 Part of my Reports, fol. 63. b. But in the same Case, if an Acre or an House had been excepted, and the Feoffees afterwards purchases the Acre or the House, none of them shall be Parcel of it again: And so the Difference appears *inter partem integram, similarem, & dissimilarem, & inter partem dissimilarem solo annexum sive adhaerentem* (as is said in 9 E. 3. 2. a. b. *Rob. de Vanlere's Case*) *ut domus, & partem dissimilarem excrescentem, ut arbor.*

As to 3 Objection, it is true, That an integral Part, of  
H 2 Thing

Cro. Jac. 459;  
2 Rol. 455.

Cro. Jac. 459;  
Ance 48. b.

1 Rol. Rep. 1012  
Br. Contract 2,  
11, 26. 18 E. 4.  
21. b. Perk.  
Sect. 58. Br.  
Waste 67. Br.  
Trespas 2. Br.  
Tail 1. Br.  
Done 2.

5 Co. 11. b. Hut;  
88, 89.

Co. Lit. 324  
325.

Owen 49. Cfo;  
Eliz. 522.

1 Rol. Rep. 1012;  
Postea 51. b.

Thing appendant in Possession, can't be Parcel, &c. of a Reversion expectant on an Estate for Life, as has been said; but the Trees (as has been often said) are growing out of the Inheritance, and attendant upon it, as by a Grant of the Reversion, the Charters and Evidences shall pass as Things attendant upon the Inheritance, and in Truth they are the (a) Sinews of the Inheritance. So if I have a Manor in which there is a Park and Fish-ponds, and I lease the Manor, except the Game of Deer, and the Fish, and afterwards I grant over the Reversion, the Grantee shall have the Deer, and the Fish, as Things attendant upon the Inheritance, so not only those which have vegetative Life, but also those which have sensitive Life, shall go with the Inheritance. And it is resolved in (b) 14 H. 8. 25. b. in *Wistowe's Case of Grays-Inn*, That if a Man has an Horse-mill, and the Miller takes the Millstone out of the Mill, to the Intent to pick it to grind the better, altho' it is actually severed from the Mill, yet it remains Parcel of the Mill, as if it had been always lying upon the other Stone, and by Consequence by the Lease or Conveyance of the Mill it shall pass with it: So of Doors, Windows, Rings, &c. the same Law of Keys, altho' they are distinct Things, yet they shall pass with the House; a *fortiori* in the Case at the Bar, the Trees which are growing out of the Inheritance shall pass with it. And in the Case at the Bar, it wou'd be a great Inconvenience if the Trees shou'd not pass with the Inheritance, for in all the Leases for Life or Years made by the King, either of Land within the Survey of the *Exchequer*, or of the *Dutchy*, the Trees are excepted, and if they shou'd be reputed as Chattels, or if they shou'd not pass with the Reversion as Parcel of the Inheritance, great Inconvenience wou'd ensue, altho' the Trees are particularly granted. *Vide Swain's Case in 8 Part of my Reports, fol. 63. quod nota bene.*

As to 4 and last Objection, it was resolved, 1. That if the Reversion had been conveyed over by the Name of Tenements, or of his Reversion generally, without Question the Trees would pass, and altho' he covenanted to stand seised *de Tenemen' prad' cum pertin' superius dimissis, &c.* yet thereby the Inheritance of the whole Land passed, and by Consequence the Trees being Parcel of the Inheritance, shall pass with it, and the Trees shall not pass as Things demised, but as Things annexed to the Inheritance, notwithstanding that they are not demised. And in the Argument of this Point, these Cases were cited, *Pascha 41 Eliz. in this Court, inter (c) the Lady Ruffel Pl. and Gulwell Def.* in an Action of Debt on a Bond where the Case was, That the Pl. by Deed indented, leased to the Def. a Farm called D. except one Close by Name, and the Lessee by the same Indenture covenanted with the Lessor to do divers Things concerning the Premises, and was bound in the said Bond to perform all the Covenants and Agreem. in the said Indenture;

(c) 5 Co. 74. b.  
9 Co. 17. b.  
1 Co. 1. b.

(b) Br. Distress  
23. Co. Lit. 47. a.

1 Rol. 59.

8 Co. 64. 2.

1 Rol. Rep. 96.

2 Rol. 59.

(c) Cr. Pl. 65.  
638. 1 Rol. 437.  
1 Rol. Rep. 102.  
Moor 553. Hob.  
2, 6.

and if these Words *the Premises* should extend to the Close excepted, was the Question, (a) (and *Mountague in Dive* (a) *Plowd. 67. a.* and *Manningham's Case* held, that *the Premises* should extend to the Thing excepted.) But it was (b) resolved, That in (b) *Cr. El. 657.* the principal Case *præmissa* shou'd not extend to the Thing excepted, but are as much in Effect as *prædmissa*. And (c) (c) *Hob. 276. Pascha 10 El.* one by Deed indented demised certain Land between *Pond-Meadow* of the one Part, and *Todes-yard* of the other Part, and the Lessee covenanted to repair the Hedges about the Premises, and (d) it was adjudged, that (d) *Hob. 276.* it shou'd not extend to the Abuttals, but *præmissa* should be taken in Law as *prædmissa*; so in the Case at Bar, *Tenementa præd.* & *Tenementa prædicti superius dimissa*, and *præmissa*, and (e) *prædmissa*, or *præconcessa*, are all one in Judgment of Law. But *Pasche 35 Eliz. in this Court inter the* (f) (f) *Cr. El. 781, 782. Hob. 276. 1 Rol. Rep. 102. 1 Rol. 422.* *Earl of Pembroke and Simons* (Servant of Sir *Henry Barkley*) the Case was, That the Father of the Pl. had granted to Sir *H. Barkley* the keeping of *Staffordale-Walk*, and of *Brewcombe-Walk* in the Forest of *Fromselwood* for Term of his Life: The Pl. by his Deed did confirm the Estate of the said Sir *H.* in *Brewcombe-Walk*, and granted *Staffordale-Walk*, to him and the Heirs-males of his Body, with a Proviso, That if he fell'd any Trees in the Premises, that then his Estate should cease: and afterwards Sir *H.* fell'd Trees in *Brewcombe-Walk*; and it was resolved that these Words *the Premises* should extend to it, for the Deed had Operation in it by Way of Confirmation, and therefore there *præmissa* shou'd be taken as well for (g) *præconfirmata* as *præconcessa*, (g) *Cr. Car. 222. Lit. Rep. 145. 1 Anders. 236.* but shou'd not extend to any other Part of the Forest; altho' it was not named before, of which the Deed has no Operation. And the C. J. said, That as to cutting down of Trees, Grass, Corn, and other Things annexed to the Soil, there are great Variances of Opinions in our Books, not only against whom the Action of Trespass *Vi & Armis* shall be brought for Recovery of Damages, but also concerning the Property of them. And therefore (h) if one Disseises me, (h) *Hob. 98. Kelw. 1. b. 2 Inst. 282, 8cc. 1 Rol. Rep. 100. 101. 2 Rol. 554. Owen 112, 112.* and during the Disseisin he cuts down the Trees, or Grass, or the Corn growing upon the Land, and afterwards I re-enter, I shall have an Action of Trespass against him *Vi & Armis*, For the Trees, Grass, Corn, &c. For after my Regress, the Law, as to the Disseisor and his Servants, supposes the Freehold always continued in me; but if my (i) Disseisor (i) *2 Rol. 554. contra. Cr. El. 540. contra. Moor 461. cont. 18 E. 4. 4. 2. 1 Anders. 352. Godb. 382. 1 Rol. Rep. 1 Co. Lit. 150. Palm. 354. 1 98.* makes a Feoffment in Fee, Gift in Tail, Lease for Life or Years, &c. and afterwards I re-enter, I shall not have Trespass *vi & armis* against those who came in by Title; for this Fiction of the Law, that the Freehold continued always in me, shall not have Relation to make him, who comes in by Title, a wrong Doer *Vi & Armis*, for *in fictione juris semper æquitas existit*; But in such Case I shall recover all the mean Profits against my Disseisor in the same Manner as the

RICHARD LIFORD's Case. PART XI.

Disseisee in such Cases should recover in an Assise at the Common Law before the Statute of *Glocester, cap. 1.* Damages only against the Disseisor. Also it is to be presumed, That the Feoffee has given Consideration or Recompence to the Disseisor, and that the Lessee has paid Rent to him, or other Consideration, and therefore in Reason the Disseisor is to be charged with the whole. (a) The same Law, if my Disseisor is disseised, and afterwards I re-enter, I shall not have an Action of Trespass against the 2 Disseisor, because the said Fiction of Law as to Action extends only to my Disseisor, and if I should punish the 2 Disseisor, he would be twice charged, and therefore I shall recover all the mean Profits against my Disseisor, his Servants, and others who have committed the Trespass by his Command, and in his Right; and so has the Law been often taken upon Consideration of all the Books in *9 E. 3. 2. a. b. Peter de Vanlore's Case, 10 H. 6. 14. 19 H. 6. 27. 22 H. 6. 21. 32 H. 6. 32. 33 H. 6. 46. 34 H. 6. 30. 37 H. 6. 35. 38 H. 6. 28. 2 E. 4. 18. 9 E. 4. 39. 11 E. 4. 4. 20 E. 4. 18. 21 E. 4. 5. & 74. 22 E. 4. 21. 6 H. 7. 9. 10 H. 7. 27. 12 H. 7. 25. 13 H. 7. 15. b.* And all this is true *quoad actionem, sed quoad proprietatem* the Regress of the Disseisee reverts the Property in him, as well for the Corn, as for the Grass and Trees, &c. and as well against the Feoffee, Lessee, &c. and the 2 Disseisor, as against the Disseisor himself; for the Act of my Disseisor may alter my Action, but his Act can't take away my Action, Property or Right. And in this also there is great Variety of Opinions in our Books, For some as to the Disseisor himself, have taken a Difference between Things which come by the Act and Operation of the Disseisor himself (as if he sows the Land, and afterwards reaps and carries the Corn away, the Disseisee after his Re-entry can't take it, for if he had not sowed the Land, no Corn had been there, and it is for the Advancement of Tillage that the Land shou'd not lie fresh) and Things which come by the Act of God, as Grass, Trees, &c.

But upon Consideration of all the Books, it has been resolved, That it is all one, and there is no Diversity betwixt them; for the Rule and Reason of the Law, as it has been said, is, That after the Regress of the Disseisee, the Law adjudges as to the Disseisor himself, that the Freehold has continued in the Disseisee, which Rule and Reason doth extend as well to Corn, as to Trees or Grass, &c. The same Law, if the Feoffee, or Lessee, or the 2 Disseisor sows the Land, or cuts down Trees or Grass, and severs, and carries away, or sells them to another, yet after the Regress of the Disseisee, he may take as well the (b) Corn as the Trees and Grass, to what Place soever they are carried: for the Regress of the Disseisee has Relation as to the Property, to continue the Freehold against 'em all in the Disseisee *ab initio*, and the carrying them out of the Land cannot alter the Property, and if the Disseisee

(a) 2 Rol. 554.  
Contra. Owen  
112. Cr. El. 540.  
contra. Hob. 98.

(b) Dyer 31. pl.  
219. Moor 24.  
Noy 149. Co.  
Li. 55. b. Hob.  
132. 5 Co.  
117. a. b. 85. a.  
Winch. 51.  
1 Rol. 726, 727,  
728. Cr. El. 61,  
464. 27 H. 6. 1. a.  
Goldsb. 143,  
144, 145. 12 H.  
7. 25. a. 1 Rol.  
1 ep. 100, 101.  
Br. Emblements  
10, 17, 18, 20.  
12 E. 4. 5. a.  
Perkins F. 100.  
5 H. 7. 16. b.  
Br. Charters 8,  
10. 2 H. 7. 1. b.  
Dyer 173. pl. 15.  
Hughes Abr. 704.  
17 H. 6. 7. d.  
10, 11, 12, 13. a. b.

takes them, they shall be (a) recouped in Damages against the Disseisor, and so has it been often resolved and put in Experience upon Consideration of the Books in 27 H. 6. 1. a. 37 H. 6. 7. b. 12 E. 4. 5. a. 14 E. 4. 6. b. 15 E. 4. 31. a. b. 2 H. 7. 1. b. 3 H. 7. 1 & 6. 5 H. 7. 16. 12 H. 7. 25. a. 28 H. 8. Dyer 31. b. 1 Eliz. Dyer. 173. a.

(a) 5 Co. 30. b.  
(b) 1 Rol. Rep.  
101. Dyer 31.  
pl. 219. Dyer.  
173. pl. 15.

Lastly, it was resolved by the whole Court in the principal Case, That (c) when the Lessor excepted the Trees, and afterwards had an Intention to sell them, the Law gave him and them who would buy, Power as incident to the Exception, to enter and shew the Trees to those who would have them; for without Sight none would buy, and without Entry they could not see them, as in 9 H. 6. 29. b.

(c) 2 Rol 74.  
Plowd. 15. b.  
16. a. Hob. 234  
2 Rol. Co. 5 Co.  
12. a. Cr. El. 18.

(d) A Man seised of an House in a Borough, &c. devise-able, devised it to a Woman in Tail, and if the Woman died without Issue, that his Executor might sell and dispose of it for his Soul; in that Case the Executor might by the Law enter into the House, to see if it was well repaired or not, to the Intent to know at what Value the Reversion is to be sold, *Quod fuit concessum per totam curiam*, 43 Ass. pl. 7. The Law gives Power to him who ought to repair a Bridge to enter into the Land, and to him who has a Conduit in the Land of another, to enter into the Land to mend it, when Occasion requires, as it is resolved

(d) Br. Trespass  
16. Plowd. 13. b.  
Manxel's Case.

in (e) 9 E. 4. 35. a. So it is agreed in 2 R. 2. Bar. 237. If I grant you my Trees in my Wood, you may come with Carts over my Land to carry the Wood. *Temp. E. 1. Grants* 41. *Lex est (g) cuiusque aliquis quid concedit, concedere videtur & id sine quo res ipsa esse non potuit*, and this is a Maxim in Law. *Vide* 5 E. 3. *Transf.* 13. 20 E. 3. A. *vowry* 124. 8 E. 4. 5. 12 E. 4. 10. 18 E. 4. 14. b. 20 H. 6. 37. 21 H. 7. 14. b. 14 H. 8. 2. Pl. Com. in *Manxel's Case*, fol. 13. b. *Vide in my Reports*, lib. 4. fol. 62. & lib. 5. 2. Part fol. 11. And as to the Plea in Bar, it was held, That it was without Form, and without Knowledge of good Pleading, and that for 4 Reasons: 1. The Def. pleads a Lease for Life of the Tenements in which, to the Pl. and one *Mary Parker*, by Force whereof they entered, and were, and yet are seised, &c. which is an Averment of the Life of *M. Parker*, which upon the Matter is, that the Pl. has nothing in the Tenements in which, &c. but jointly with *M. Parker* who is alive not named in the Writ, and yet he doth not plead it to the Writ, but concludes and demands Judgment *Si actio*, which is not well pleaded, for every Plea ought to have an apt Conclusion, and therewith agree

(e) 1 Saund.  
323. Br. Nufans  
14. Br. Incident 8. Fitz.  
Action sur Case  
18.  
(f) Perk. Sect.  
110. Hob. 234.  
Cro. Jac. 170.  
190. 2 Rol. 60.  
(g) 5 Co. 12. a.  
47. a. 115. b.  
2 Bulstr. 252.  
12 Co. 139. 130.  
Co. Lit. 50. a.  
153. a. 2 Inst.  
306. Moor. 218.  
Cawly 246.  
Hawks Max.  
258. 2 Syd. 39.

40 E. 3. 9. b. 43 E. 3. 27. 36 H. 6. 18. a. *Vide* 22 Ass. pl. 53. 14 H. 4. 7. 4 H. 6. 27. 18 H. 6. 32. 9 H. 7. 2. So if a Man pleads an Estopple, he ought to rely upon it, and not demand Judgment *Si actio*;

Statham Avowry 2. Br. Pleading 53. Br. Bridg. 243. Doctrin. placit. 158. 4 Co. 53. a. 2 Jones 2. Br. Waiver de chose 31.

RICHARD LIFORD's Case. PART XI.

Doctrin. placit.  
138, 146.

2. The Plea contains double Matter, one to the Writ by Jointenancy, the other in Bar, by the Exception and the Covenant: 3. In pleading of a Lease for Life which passes by Livery and Seisin, it is meer Surplusage to plead an Entry of the Lessees. 4. He don't averr That the Trees which were sold, were not Dotards, which are excluded out of the Exception, but he averrs That they *De jure pertinebant* to Richard Liford, which is not formal, for he ought in good Pleading to have averr'd That they were not Dotards. But upon the whole Matter, sufficient Matter appears to the Court to give Judgment against the Plaintiff; wherefore by the Rule of the Court, the Plaintiff took nothing by his Bill.

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Mich.

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## Mich. 12 Jacobi Regis.

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### The Case of the Taylors, &c. of Ipswich.

**T**Rin. 11 Jac. Regis in the King's Bench, Magistri Gardi-  
 ani, & Communitas Scissorum & operatorum pannorum  
 villa Cipwic' in Com' Suff. brought an Action of Debt for  
 3 l. 13 s. 4 d. against William Sheninge, and declared, That  
 whereas the King by his Letters Patents had incorporated  
 the Plaintiffs by the said Name, and granted, That they  
 should have *plenam potestatem & auctoritatem facere & constituere*  
*rationabiles leges, ordinationes & Constitutiones, in Scriptis*  
*que eis viderentur bonis, Salubris, utilis, honestis & necessariis, secun-*  
*dum eorum discretionem pro bono regimine & gubernatione, &c.*  
*Societatis predictae, &c.* and to impose Fines and Amercements  
 for Breach of the said Laws, &c. and recited the Statute  
 of 19 H. 7. 7. by which it is enacted, That no Master,  
 Wardens, and Society of Crafts and Mysteries, take upon  
 them to make any Acts or Ordinances, nor to execute any  
 Acts or Ordinances, *in exheredationem seu diminutionem pra-*  
*rogativa vel aliorum aliquorum, nec contra commune profic-*  
*populi, nisi iidem actus & ordinationes examinet & approbat*  
*forent per Cancellarium, Thesaurarium Angliae, Capitulum Justicium utri-*  
*usque Banci, vel tres eorum, vel aliter coram Justicium Assise in*  
*eorum itineribus, &c. sub poena forisfacti 40 l. pro quolibet tem-*  
*pore quo ipsi in contrarium facerent.* And afterwards the said  
 Corporation in the same 4 Year made divers Constitutions,  
 and (amongst others) that no Person exercising any of the  
 said Trades within the Town of Ipswich *Pred'* should keep any  
 Shop or Chamber, or exercise the said Faculties, or any of them,

1 Rol. 364, 365.  
 1 Rol. Rep. 4.  
 Godb. 252.  
 2 Rol. Rep. 97.  
 3 Keb. 225. Hut.  
 5, 6. 1 Brownl.  
 48. Hob. 210.  
 211. Moor. 869.

Hutt. 5. 1 Brownl.  
 48. Hob. 210.

211.

Sawers Argu-  
 ment in Quo-  
 War. 44.

OR



or take an Apprentice or Journeyman, 'till he had presented himself to the Masters and Wardens of the said Society, for the Time being, or some three of them, and should prove that he had served 7 Years at the least as an Apprentice, and before he should be admitted by them to be a sufficient Workman, and if any should offend in any Part thereof, That he should forfeit and pay to the said Masters, Wardens, and Society aforesaid, for every such Offence 5 Marks, and to levy it by Way of Distress, or by Action of Debt, &c. which (amongst others) was allowed by the Justices of Assise of the same County according to the said Act of 19 H. 7. And that the said *William Sheninge Taylor*, using the Trade of a Taylor, after the said Orders made and ratified as aforesaid, *sc.* 10 Octob. anno Regni Regis nunc 10, came to the said Town of *Ipswich*, and there then used the Trade of a Taylor by the Space of 20 Days, before he had presented himself to the said Masters and Wardens, or any three of them, or had made Proof that he had served as an Apprentice for 7 Years in the said Trade, and before he was admitted by the said Masters and Wardens, or 3 of them, to be a sufficient Workm. *Per quod actio accrevit eis d' Magistr' Guardian' & Com'* to have of the said *H.* the said 3 l. 13 s. 4 d. &c.

(a) 1 Rol. Rep. 4. Godb. 253.

(b) Palm. 544. Kel. 50. b. Cart. 115.

(c) Owen 141. Postea 86. a. Hob. 211. 1 Sand. 312. Raymond 292. Cr. El. 872. Palm. 396, 397. Cart. 118. 2 Rol. Rep. 392. 2 Keb. 125. 1 Syd. 303.

(d) Br. Oblig. 85. Godb. 253. March 193. Mo. 115, 242. 576. Owen 143. Cr. Jac. 596. Co. Lit. fol. 206. b. 1 Jones 13. Cro. El. 872. O. Ben. 46. 2 Rol. Rep. 114, 201, 204. 1 Show. 2. Comb. 121. 2 Show. 345, &c.

(a) The Def. pleaded that he was an Apprentice by the Space of 7 Years, *viz.* a 1 die Septemb' an. Reg. nunc 1 usque 2 diem Septemb' an. 8. to one *H. Bucket* in the Art of a Taylor, &c. and that 9 Septemb' an. 10 Jac. Reg. *Anthony Penny Esq;* Inhabitant in *Ipswich*, retained him to be his (b) domestick Servant to serve him for a Year, and that he within the same Time by the Command of the said *A.* made divers Cloaths and Garments for him, his Wife, and Children, as he well might, which is the same Use and Exercise of the Trade of a Taylor, whereof the Pls. have declared: Upon which the Pls. demurr'd in Law. And in this Case upon Argument at the Bar and Bench, divers Points were resolved. 1. That (c) at the Common Law no Man could be prohibited from working in any lawful Trade, for the Law abhors Idleness, the Mother of all Evil, *Otium omnium vitiorum mater*, and especially in young Men, who ought in their Youth, (which is their Seed Time) to learn lawful Sciences and Trades which are profitable to the Common Wealth, and whereof they might reap the Fruit in their old Age, for idle in Youth, poor in Age; and therefore the Common Law abhors all Monopolies, whi. prohibit any from working in any lawf. Trade; and that appears in (d) a 2 H. 5. 5. b. a Dyer was bound that he should not use the Dyer's Craft for 2 Years, and there *Hull* held, that the Bond was against the Common Law, and by G—d if the Pl. was here, he should go to Prison, 'till he pay'd a Fine to the King; So, and for the same Reason, If an Husband-man is bound that he shall not sow his Land, the Bond is against the Common Law. And *vide* 7 E. 3. 65. b. and if he who takes up on him to work is unskillful, his Ignorance

is a sufficient Punishment to him; for (a) *imperitia est maxima mechanicorum poena, & quilibet querit in qualibet arte peritus*: And if any one takes upon him to work, and \*spoils it, an Action on the Case lies against him: And the Statute of 5 *Eliz.* 4. which prohibits every Person from using or exercising any Craft, Mystery, or Occupation, unless he has been an Apprentice by the Space of 7 Years, was not enacted only to the Intent that Workmen should be skilful, but also that Youth should not be nourished in Idleness, but brought up and educated in lawful Sciences and Trades: And thereby it appears, that (b) without an Act of Parliament, none can be in any Manner restrain'd from working in any lawful Trade. Also the Common Law doth not prohibit any Person from using several Arts or Mysteries at his Pleasure, *Nemo prohibetur plures negotiationes sive artes exercere*, until it was prohibited by Act of Parliament of 37 *E. 3. c. 6. sc.* That the Artificers and People of Mystery hold themselves every one to one Mystery, and that none use other Mystery than that which he has chosen; but this Restraint of Trade and Traffick was immediately found prejudicial to the Common-wealth, and therefore (c) at the next Parliament it was enacted, That all People should be as free as they were at any Time before the said Ordinance. 2. That the said Restraint of the Defendant, for more than the said Act of (d) 5 *Eliz.* has made, was against Law, and therefore for as much as the Statute has not restrained him who has served as an Apprentice for 7 Years from exercising the Trade of a Taylor, the said Ordinance can't prohibit him from exercising his Trade, 'till he has presented himself before them, or 'till they allow him to be a Workman; for these are against the Liberty and Freedom of the Subject, and are a Means of Extortion in drawing Mony from them, either by Delay, or some other subtil Device or of Oppression of young Tradesmen, by the old and rich of the same Trade, not permitting them to work in their Trade freely, and all this is against the Common Law, and the Commonwealth: But Ordinances for the good Order and Government of Men of Trades and Mysteries are good, but not to restrain any one in his lawful Mystery.

3. It was resolved, That the said Branch of the Act of 5 *Eliz.* is intended of (e) a publick Use and Exercise of a Trade to all who will come, and not of him who is a private Cook, Taylor, Brewer, Baker; &c. in the House of any for the Use of a Family; and therefore if the said Ordinance had been good and consonant to Law, such a private Exercise and Use had not been within it, for every one may work in such a private Manner, altho' he has never been an Apprentice in the Trade.

(a) Hawks Max.  
332.  
1 Vent 268,  
269.

(b) 8 Co. 125. a.  
Bridgman 140.  
Postea 87. b.  
Cart. 115.

(c) 4 Inst. 31.

(d) Mod. 869.  
Godb. 253. Hard.  
56. Carter 119.  
Palm. 396. Hob.  
183. 211. 2 Rol.  
Rep. 391. 1 Syd.  
303. 2 Keb. 125.  
2 Bullstr. 186.  
1 Rol. Rep. 10.  
Calthrop. 9.  
3 Bullstr. 179.  
Styl. 223. 383.  
479. Cro. Jac.  
85. 179. Cro.  
Eliz. 737. Cro.  
Car. 316. 347.  
499. 516. 2 Rol.  
579. 1 Jones 412.  
Noy. 5. Hurt. 99.  
132. 5 Co. fol.  
63. b. Lutw.  
562. 564.

(e) Hob. 183.  
211. Moor 886.  
Cro. Jac. 178.  
8 Co. fol. 129. b.  
Cr. Car. 499.  
Jenk. Cent. 284.  
13 Co. 11. Palm.  
542. 544. Lit.  
Rep. 251. Bridg-  
man 141.

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110b. 210. 211.  
1 Brownl. 48.  
Hutton 5.

4. It was resolved, That the Statute of 19 H. 7. 7. doth not corroborate any of the Ordinances made by any Corporation, which are so allowed and approved as the Statute speaks, but leaves them to be affirmed as good, or disaffirmed as unlawful by the Law; the Sole Benefit which the Incorporation obtains by such Allowance is, that they shall not incur the Penalty of 40 l. mentioned in the Act, if they put in Use any Ordinances which are against the King's Prerogative, or the common Profit of the People, &c. And Judgment was given, *quod querentes nihil caperent per billam.*

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*Mich.*

# Mich. 12 Jacobi Regis.

## EDWARD SAVEL's Case.

**E**dward Haymond brought *Ejectione firma* against Edward Savel and W. Bowes, *Pro eo, viz. quod cum quidam Jacobus Smith primo die Aprilis Anno Regni Regis Jacobi Anglie* 1 Roll. Rep. 55. Hughs Abr. 771. n. 5.

11. *apud Leeds in Com' Ebor' dimisit prefat' Edw. Haymond unum Mesuag' cum pertin' in Leeds præd' & unum Claus. vocat' Dovecot-clofe cont' 3 Acr' eidem mesuag' Spedian' seu pertin' in Leeds præd' for Term of three Years, &c. and declar'd of an Ejectment, &c. The Defendant pleaded Non culp'; and the Jury found, as to the House, that the Defendant was not guilty; and as to the said Clofe called Dovecot-Clofe, the Defendant was found guilty.* 1 Roll. Rep. 135. Cr. El. 458. 1 Roll. Rep. 55. Cr. Car. 555. Contra. Hard. 592, 76, 133. Bridgm. 56. Moor 422, 702. March. 96. 1 Jones 454. Cr. Jac. 124, 125, 435, 436, 574, 621. Contra. Cr. El. 235. contra. 339. Godb. 71. Owen 18. Stille. 30. 1 Roll. Rep. 2. 1 Roll. Rep. 775. 2 Bulstr. 214. Allen 74. Yelv. 114, 118, 166. 145. Owen 93. 133. 1 Syd. 229. 295. Cr. El. 116. 1 Leon. 188. Palmer 101. 2 Roll. Rep. 166. Doct. pl. 86. And Suites 194.

In Arrest of Judgment it was moved, That an *Ejectione firma* doth not lie of a Clofe, altho' it has a certain Name, but it ought to be of so many Acres; and altho' he saith in this Case, containing three Acres, yet he doth not shew of what Nature the Acres are, as Land, Meadow, Pasture, Wood, &c. and the certainty ought to be comprised in the Declaration, because he shall recover the Possession by *Hubere fac' possessionem*, and that shall pursue the Form of other Writs of the like Nature, as *Right of Ward*, or *Ejectment of Ward*, or the like, shall not be brought of a Clofe by certain Name, but it ought to be by the certainty of the Acres containing the Quality of the Land, as of Land, Meadow, Pasture, Wood, &c.

EDWARD SAVEL's *Case*. PART XI.

**F. N. B. f. 2. C.** And altho' by \* good Order, the most Worthy shall have the Precedency, and shall be preferred before the less Worthy; and a Thing entire shall be preferred before a Part, &c. yet if the said Order be not precisely followed, the Judges will not abate the Writ, or Count for it. *Vide 6 E.*

‡ 1 Show. 338.

4 Mod. 97. Salk.

254. Comb. 198.

3. 42. & 9 E. 3. 3. And for the aforesaid ‡ Exception Judgment was arrested.

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## Mich. 12 Jacobi Regis.

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### BENTHAM'S Case.

**M**ARSH brought a Writ of Annuity against *Bensham*,<sup>2 Bulfr. 279.</sup> and the Parties came to Issue, which was tryed for the<sup>1 Roll. Rep. 32.</sup> Plaintiff, and found the Arrearages, &c. but the Jury did not<sup>Jenk. Cent. 286.</sup> assess any Damages or Cofts; which Verdict was imperfect,<sup>1 Roll. 760.</sup> and could \*not be supplied by Writ of Enquiry of Damages;<sup>2 Roll. 722.</sup> but the Plaintiff released his Damages and Cofts, and there-<sup>\* 10 Co. 118. b.</sup> upon had Judgment: Upon which the Defendant brought a<sup>Hob. 178.</sup> Writ of Error, and assigned the Error aforesaid, *sc.* The in-<sup>10 Co. 115. b.</sup> sufficiency of the Verdict; *sed judicium affirmatur*, because<sup>1 Roll. 784.</sup> the Plaintiff has released his Damages and Cofts, which is<sup>5 Co. 108. a.</sup> for the Defendant's Benefit. *Vide 22 Eliz. Dyer 369, 370.*<sup>1 Roll. 784.</sup> Where in a Writ of *Ejectione Custodia terre & heredis*, the<sup>11 Co. 45. b.</sup> Jury assessed Damages entirely, which was Insufficient; for,<sup>Hard. 166.</sup> for the Heir it doth not lie, yet he released his Damages,<sup>10 Co. 130. b.</sup> and had Judgment for the Land. *Nota*, an Insufficient as-<sup>Sey. 399. 2 Bulfr.</sup> sessment of Damages, and no Assessment, is all one.<sup>28. 10 Co. 130. a.</sup>  
<sup>1 Leon. 92.</sup>  
<sup>pl. 118.</sup>

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# Mich. 12 Jacobi Regis.

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## Dr. FOSTER's Case concerning Recusants:

2 Bulstr. 214.  
 1 Roll. Rep. 96.  
 3 Inst. 198.  
 23 El. c. 1. Palm.  
 542. Cr. Jac.  
 480. Bridgm.  
 120. 2 Roll. Rep.  
 108.

Cawly 129.  
 1 Leon. 241. Co.  
 Ent. 569. 1 An-  
 der. 138. 2 Leon.  
 3.

Cawly 71, 72.  
 1 Roll. Rep. 88.  
 Cr. Jac. 480.  
 Bridgman 120.

1 Eliz. cap. 2.

**W**illiam Shoyle exhibited an Information against Richard Foster Dr. of Physick, That the said Richard Foster of the Parish of St. Anthony in the Ward of Cordweyner, London, 20 Junii Anno Domini Regis nunc II. was of the Age of 16 Years and upwards, and from the said 20th Day of June, till the 10th Day of May then next following, viz. by the space of 11 entire Months and more, did not repair to his Parish Church aforesaid, nor to any other Church, Chappel, or usual Place of Common Prayer or Divine Service, but *per totum tempus predictum voluntarie & obstinate absque aliqua causa rationabili abstinuit ab eisdem, contra formam statuti in hujusmodi causa editi & provis, per quod actio accrevit eidem domino Regi ac prefato Willielmo Shoyle qui tam pro Domino Rege quam pro seipso sequitur ad habendum & exigendum de prefato Richardo Foster 220 l. legalis moneta Angliae, viz. pro quolibet mense, &c. 20 l. &c. unde idem Willielmus Shoyle petit inde tertiam partem, juxta formam statuti predicti.* To which Dr. Foster pleaded, That the said William Shoyle qui tam &c. pro predictis 220 l. in eadem informatione content seu aliqua inde parcella prosequi non debet; for he said, That by an Act of Parliament, Anno 23 Reginae Eliz. it was enacted, That every Person above the Age of 16 Years, which should not repair to any Church, &c. but should absent himself against the Statute de Anno 1 Eliz. for the Uniformity of Common

Common Prayer, & *existens inde legitime convictus*, should forfeit to the said late Queen *pro quolibet mense post finem* of the said Session of Parliament, &c. 20 l. &c. and further, that all the Forfeitures of any Sum of Money limited by the said Act, should be divided into three equal Parts, that is to say, One third Part to the said late Queen, to her own Use, and another third Part to the said late Queen, for the Relief of the Poor of the Parish, &c. and the other third Part to such Person who would sue for it in any Court of Record *per Actio' Debiti, Billam, Querclams vel Informationem*. &c. And afterwards by another Act of Parliament, Anno 28 of the said late Queen, it was enacted, That every Offender in not repairing to Church to Divine Service, &c. against the Form of the said Act *de Anno 23.* which should then after happen to be once convicted, in such Terms of *Pasch. & S. Michael' Archangel'*, which should be next after such Conviction, should pay into the Receipt of the Exchequer, according to the Rate of 20 l. for every Month as should be contained in the Indictment upon which such Conviction was, and also for every Month after such Conviction, without any other Indictment, should pay into the Receipt of the Exchequer, &c. and if any Default should be in any Part of Payment, &c. that then and so often the said late Queen might by Process out of the Exchequer, take, seize and enjoy all their Goods, and two Parts of their Lands, Tenements and Hereditaments, Leases and Farms, &c. And where by the said Act *de Anno 23 Eliz.* one third Part of the Forfeitures for not coming to Divine Service, was limited to the Poor, &c. by the said Act *de Anno 28 Eliz.* it is ordained, That it shall be lawful for the Lord Treasurer, Chancellor, and Chief Baron of the Exchequer, &c. to assign and dispose of it, &c. And further, by the Act of 25 *Eliz.* that *pro magis festina* (*Anglice, more speedy*) *levatione*, and recovery for and by the said Queen *omnium & singularum pecuniarum, debitorum, forisfactur'*, and Payments that then after should become payable *virtute ejusdem Actus de Anno 25 Eliz. vel dicti Statuti facti in Anno 23. (inter alia) inactiua' fuit autoritate ejusdem Parliamenti de Anno 35. quod omnia & singula dicta pecunie, debita, forisfactur', & solutiones forent & potuissent esse recuperat' & levat' ad usum dicta Domine Regina per actionem debiti, billam, querclam, sive informationem, vel aliter, in Curia de Banco Regis, Communi Banco, vel Scaccar', in tali modo & in omnibus respectibus prout per ordinarium cursum communium legum aliquod aliud debitum solubile (Anglice, due) per*

29 El. c. 6.  
Bridgms 126.  
Moor 23. Cr.  
Jac. 480. Lane  
60. 1 Rol. Rep.  
75, 92, 93. 12 Col.  
72.

23 El. c. 12

29 El. c. 6

35 El. c. 1. Cr.  
Jac. 481. 1 Rol.  
Rep. 90.



*aliquam talem personam, in aliquo alio casu, foret vel potuisset esse recuperat' sive levat', &c.* and further by the same Act de Anno 35 El. it was enacted, That one third Part of the Penalties to be recovered by the same Act should be disposed of to the Poor, according to the Act of 28 Eliz. aforesaid: Et idem Richardus ulterius dicit quod per præd' Statut' de Anno 35 supradicto apparet quod omnia & Singula pœna, Debita, Forisfactur', & solutiones, quæ post præd' Actum de Anno 35 supradicto accrescerent vel solubil' forent virtute ejusdem Actus vel præd' Statuti de Anno 23 concerning Recusants, forent & possent recuperari & levari ad usum præd' Regiæ Majestatis, &c. quodq; nulla tertia pars pœnarum, debitorum, forisfactur' & solutionum præd' per præd' Act' de An. 35 alicui persona quæ pro ead' sequi voluerit limitat' vel provis. existit, & hoc idem Richardus paratus est verificare, unde petit judicium si prædict' W. Shoyle, qui tam, &c. pro prædict' 220 l. &c. prosequi debeat: Upon which Plea the Attorney General demur'd in Law, and six Objections were made by the Defendant's Counsel against this Information. 1. That the Defendant is not such a Person as is within the said Act of 23 Eliz. 2. That the Informer is not such a Person that may exhibit any such Information upon the said Act of 23 Eliz. 3. That the Judgment which shall be given in this Case, is not within the said Act of 23 Eliz. 4. Admitting all these Points against the Defendant, it was further objected, That by the said Act of 28 Eliz. the Branch which gives a Popular Action is taken away. 5. If the said Act of 28 Eliz. doth not take it away, that the Statute of 35 El. c. 1. has abrogated it. 6. That if the Defendant should be charged at the Suit of the Informer, he may be charged again at the King's Suit, and so twice charged.

To the first, The Person Delinquent is described by the Act, by an Attribute which the Defendant wants, for the Words of the said Act of 23 Eliz. are, *Every Person above the Age of Sixteen Years, which shall not repair to some Church, Chappel, or usual Place of Common Prayer, but forbear the same, contrary to the Tenor of a Statute made in the first Year of her Majesties Reign, for Uniformity of Common Prayer, and being thereof lawfully convicted, shall Forfeit to the Queen's Majesty for every Month, &c. 20 l. &c.* By which it appears, That no Person shall incur this Forfeiture, unless he be before lawfully convicted, so that a Recusant convicted is only within the Purview of this Act, and it doth not appear in the whole Record, that the said Richard Foster has been convicted, and therefore he is not a Person within this Act. And Penal Statutes are to be pursu'd (especially in Informations)

35 El. c. 1.

1 Roll. Rep. 88.

1 Roll. Rep. 88.

23 El. c. 1.

29 El. c. 6.

23 El. c. 1. Po-  
lea f. 59. b.

1 Roll. Rep. 89.

mations) strictly, and *in terminis* according to the Purview of the Act, and therefore *Pascha 20 Eliz.* a Case was adjudg'd in the Exchequer, That where an Information was exhibited and shewed the Usurious Contract in certain, upon which it appeared, that above the Sum of 10 *l.* was reserved and received for the Loan of 100 *l.* against the Form of the Statute, &c. and altho' it appeared that it was corrupt, and that he concluded *contra formam Statuti*, yet because he did not expressly say, that it was *per corruptam accommodationem* according to the Words of the Penal Statute, the Information was adjudged Insufficient: So in the Case at Bar, forasmuch as the Statute saith, That every Person, &c. being lawfully convicted shall forfeit, he ought of Necessity to have shewed, that the said *Dr. Foster* was lawfully convicted: *Vide 3 Mar. Dyer 131. 2 Eliz. 183. 20 Eliz. 367. pl. 43.*

2. That none can inform upon the Statute of 23 *El.* but for the King only, for in the former Part of that Act it is provided, *That every Person that shall say or sing Mass, &c. shall forfeit the Sum of 200 Marks, and that every Person that shall willingly hear Mass, shall forfeit the Sum of 100 Marks;* and afterwards comes in the same Act the Clause of Forfeiture of 20 *l.* by the Month to the Queen, and afterwards inflicts 10 *l.* by the Month for him who keeps a School-Master, and then follows the Clause of Distribution of the Forfeitures, *And that all Forfeitures of any Sums of Money limited by this Act, shall be divided into three equal Parts, &c.* And it was objected, That this Clause extends only to the said Forfeitures of 200 Marks, and 100 Marks, &c. which Penalties were not given to any Person in certain, but indefinitely and generally, that they shall be forfeited, and therefore this Clause of Distribution refers to them; but the Forfeiture of 20 *l.* by the Month for Recusancy was expressly given to the Queen, and so was not any of the other Forfeitures, and therefore this Clause of Distribution shall not extend to that which was before to the Queen, but to those Penalties which were left indefinitely, and given to no body.

3. The Words of the said Act of 23 *Eliz.* are, *being there- of lawfully convicted,* and Conviction ought to be either by Verdict or Confession, &c. and can't extend to a Judgment upon a Demurrer as in our Case, for there is not any Conviction, for always Conviction ought to precede Judgment; and therefore in our Books, the Difference between a Clerk convicted and a Clerk attainted is, That he who is convicted by Verdict or Confession, &c. and takes his Clergy before Judgment, is called a Clerk convicted, and he who

1 Anderson 49.  
pl. 123. Doctrin.  
placit. 332, 333.  
Antea 37. a.  
18 E. 4. 10. b.  
4 Co. 39. b. Br.  
Indictment 36.

Dyer 363. pl. 25.  
183. pl. 59. Jenk.  
Cent. 221. Hales  
Pl. Cr. 231. Dy.  
131, 132. pl. 75.  
1 Rol. Rep. 92.

1 Rol. Rep. 89.  
Antea 60. a.

1 Rol. Rep. 89.

1 Rol. Rep. 89.  
Postea 60. a.

1 Rol. Rep. 89.

takes his Clergy after Judgment, is a Clerk attainted, and therewith agrees *Stamford fol. 138. C.* who holds, That there are two manner of Clerks, *viz.* Clerk convicted, and Clerk attainted: A Clerk convicted, is he who prays his Clergy before Judgment given against him of the Felony, and has his Clergy allowed to him, &c. A Clerk attainted, is he who prays his Clergy after Judgment upon him for the Felony: But in the Case at Bar Dr. Foster is a Recusant (if Judgment shall be given against him) attainted, and not convicted; and *Stamford, f. 185. B.* faith, So it is clear in my Judgment, that he can't be called Clerk convicted till upon Issue joyn'd a Verdict has pass'd against him; and thereupon it was said, if the Defendant will not answer to the Indictment, so that he is condemned by *Nihil dicit*, that it is out of this Statute which speaks only of Conviction, and therefore upon the Statute of 1 E. 6. c. 12. which takes away Clergy in divers Cases, the Words of which are, *No Person or Persons that shall be hereafter in due Form of Law, Attaint, or Convict*, that these Words do not extend to him who will not answer, *Vide Stamford fol. 126. a.* So that the Case at Bar is *casus omissus* out of the said Act, for here, upon the Demurrer upon the Defendant's Plea, no Conviction can be before Judgment, but, if the Law should serve for the Informer, Judgment would be given without any Conviction whereof the Statute speaks, and such Penal Act shall not be taken by Intendment or Equity.

4. But admitting it shall be a Conviction within the Statute, then by the said Act of 28 Eliz. the whole Penalty of 20 l. by the Month is given to the Queen, for the Words are, *That every such Offender, in not repairing to Divine Service, &c. as hereafter shall fortune to be once convicted, shall, in such of the Terms of Easter or Michaelmas as shall next happen after such Conviction, pay into the Receipt of the Exchequer, after the Rate of 20 l. for every Month which shall be contained in the Indictment, whereupon such Conviction shall be; and shall for every Month after such Conviction, without any other Indictment or Conviction, pay into the Receipt of the Exchequer, &c. after the Rate of 20 l. the Month, &c. and if Default be made, &c. the Queen's Majesty shall and may, by Process out of the Exchequer, seize all the Goods, and two Parts of the Land, &c. by which it appears, That the whole Penalty for Recusancy is given to the Queen, and by consequence the Informer is excluded.*

5. The Stat. of 35 El. is stronger, for that by express Terms gives

1 RoL. Rep. 90.  
Postea 60. b.  
29 El. c. 6.

Postea 60. a.  
35 El. c. 1.

gives the whole Penalty given by the said Act of 23, for Recufancy to the Queen, the Letter of which Act is, *And for the more speedy levying and recovering for and by the Queen's Majesty, of all and fmgular the Pains, Duties, Forfeitures and Payments, which at any Time hereafter fhall accrue, grow, or be payable by virtue of this Act, or of the Statute of the 23d Year, &c. Be it enacted, That all and every the fmg Pains, Duties, Forfeitures and Payments, fhall and may be recovered and levied to her Majesty's Ufe, by Aftion of Debt, Bill, Plaint, Information or otherwife, in any of the Courts commonly called the King's Bench, Common Pleas, or Exchequer, in fuch Sort, and in all Refpects, as by the ordinary Courfe of the Common Laws of this Realm, any other Debt due by any fuch Perfon in any other Cafe fhould or may be recovered or levied: In which, thefe Words in the Preamble are to be obferved. 1. For the more speedy recovering and levying for and by the Queen's Majesty; here is the Perfon expreffed who fhall Recover. 2. Of all and fmgular the Pains, which Words contain what Things the Queen fhall recover, viz. All and fmgular the Pains, &c. & generale dictum generaliter eft intelligendum. 3. The Body of the Act, Be it enacted, that all and every the fmg Pains, &c. fhall and may be recovered and levied to her Majesty's Ufe; and if all the Pains, and every of them fhall be recovered to the Queen's Ufe, then it follows, That the Informer fhall recover nothing; and many Cafes were put, where a latter Act fhall take away a former, and the Ground was taken, that (a) *leges posteriores priores contrarius abrogant*; but more particularly and more to the Purpose, two Reafons were alledged, why the latter Statutes of (b) 28 & 35 Eliz. took away and abrogated the Diftribution of the Act of (c) 23 Eliz. &c. the firft, That when an Act of Parliament gives Power or Intereft to one Perfon certain, by that (d) exprefs designation of one, all others are excluded, altho' fuch Statute be in the Affirmative, and fo it is held in *Plow. Com.* (e) 29 El. c. 6. in *Stradling's Cafe* (f) 105. b. that where the Statute of (g) 31 E. 3. 12. enacts, That Error in the Exchequer fhall be corrected and amended before the Chancellor and Treafurer, and therefore it can't be corrected before any other; and there a general Rule is put, That when a Thing is to be done before one Perfon certain by any Stat. it can't be done bef. any other; and yet the Stat. of 31 E. 3. is in the Affirmative: So in the Cafe at Bar, the certain Designation of the Queen, is an absolute Exclusion of all others, *Quia (g) in clufio unius eft exclusio alterius*: and a Cafe was cited out of *Justice Dallison's Reports in An. 3 El.* that forasmuch as the Stat. of (h) 8 H. 6. c. 9.*

(a) 1 Jones 186.

1 Co. 25. b.

11 Co. 62. b.

64. b. Cr. lac.

121. 8 Co. 137. b.

Stamf. Prae. 69. b.

12 Co. 8. 1 Rol.

Rep. 410, 423.

Hawk. Max.

452. 2 Infl. 685.

Godb. 169.

(b) 29 El. c. 6.

35 El. c. 1.

(c) 23 El. c. 1.

(d) Carter 36.

(e) Plowd. 206. b.

(f) 1 Co. 11. 2.

Savil. 36.

(g) Hawk. Max.

(h) 1 Rol. Rep.

92. Dall. 25. pl. 8.

Dall. in Kel. 204.

pl. 2. Dall. in

Of. Ash. pl. 2. Po-

ftea 65. 2. 9 Co.

118. b.

Dr. FOSTER's Case. PART XI.

of Forcible Entry, designeth Justices of Peace to make Restitution thereby (altho' the Statute was in the Affirmative) others are excluded, and therefore (a) neither Justices of Oyer and Terminer, or Goal-delivery, &c. shall do it: *Vide* 27 H. 8. 13. b. in *West*, 23 *Aff.* 17. in *Redisseisin*, 4 *Eliz.* 211. *Commission* upon (b) 28. H. 8. of the *Admiralty*, &c. The second Reason was, in respect of the generality of the Words, *viz.* *All and singular the Pains, &c. and all and every the Pains, &c.* which Words imply a Negative, for if the Queen shall recover *all and singular, and all and every the Pains, &c.* then no other Person shall recover any of them, Et (c) *qui omne dicit nihil excludit, & generale tantum valet in omnibus, quantum singulare in singulis*; and thereupon they cited the Case in (d) 33 H. 8. 50. that where the Words of 27 H. 8. c. 27. are, *That all Grants by Letters Patents, to be made for Term of Life, or Years, of any Office concerning the Lands within the Survey of the Court of Augmentation, &c. shall be sealed with the Great Seal of that Court*; and it seems there that they imply a Negative, so that if the Grant be under the Great Seal of *England*, it shall be void; and *Amy Townsend's Case*, *Plo. Com.* 113. and many other Cases were put to such Effect, which I here have purposely omitted.

6. It was objected, That if the Defendant should be charged at the Suit of the Informer, he may be by Force of the said two Statutes, and especially of the Statute of the 35 *Eliz.* charged again, and so twice charged, and (c) *Nemo debet bis puniri pro uno delicto*; and the Case has the greater Mischief, because by the Statute of 3 *Jac. Reg. c. 4.* No Traverse to any Indictment of Recusancy shall be allowed, but to the direct Point of not coming to Church, or that the Party has conformed himself, so that he can't plead; that another Information is depending; or that he is *auter fois convict*, &c. at the Suit of the Informer.

As to the first Objection, it was answered and resolved by the whole Court, That he may be convicted in the same Indictment or Information preferred or exhibited against him; and so was it held by all the Judges of *England* assembled at *Russel-house*, where Sir *John Puckerin*, then Keeper of the great Seal, then dwelt. *Vide* 10 *E. 4.* 11. b. & 7. *R. 2.* *Barr* 241. and that stands well with the Words of the Statute, for he shall forfeit nothing before Conviction, and so has the Law always been taken upon the Statute of 3 *H. 6.* 3. which enacts, That if a Customer, &c. be duly attainted or convicted, &c. he shall forfeit to the King, &c. and all other Statutes which have such Form of Penning, and it is impossible that he can be convicted without Suit, and convicted in this Case

(a) *Hardres* 116.

(b) *Dyer* 211. pl. 33. *Hob.* 146. *Jenk. Cent.* 225. *Cr. El.* 542, 571. *Moor* 462, 463, 902.

(c) 2 *Inst.* 81.

(d) *Dyer* 50. pl. 1. *Palm.* 495, 542. *Hob.* 173. *Postea* 64. b.

*Postea* 65. a.

(e) *Cr. Jac.* 481. 4 *Co.* 43. a. 8 *Co.* 118. b. *Cawley* 78. *Noy.* 82. 1 *Roll. Rep.* 95. *Bridgm.* 122.

*Antea* f. 57. b. 1 *Roll. Rep.* 90. 203, 234. *Cawley* 61. 3 *Builfr.* 37.

1 *Roll. Rep.* 90.

1 *Roll. Rep.* 89.

Case shall be taken for attainted, for he shall forfeit nothing till Judgment, *Vide F. N. B.* 73. d. 30 E. 3. 1. b. in Attaint, and many Books, where Convicted is taken for Attainted, *vide* before in the Case of *Alex. Fowler* of Clergy, fol. 32. b.

As to 2 (a) Point, it was answered and resolved, That the said Branch of 23 *Eliz.* of Distribution, should extend as well to the Clause of the Penalty for Recusancy, as to the Clause of saying and hearing Mass, &c. 1. Because it is all one to (b) say, shall (c) forfeit generally, and shall forfeit to the Queen; for the Queen shall have them in both Cases without saying more, *Et expressio eorum que tacite insunt nihil operatur.* 2. (d) Divers Acts of Parliaments give the Penalty forfeited to the King, and yet afterwards make Distribution of the Penalty to another, *viz.* to him who will sue, as the Statutes of 3 *H.* 6. 3. 3 *H.* 7. 7. &c. 3. By two Judgments in Parliament, *viz.* in the said Acts of 28 & 35 *Eliz.* For by the same Acts, the Distribution made by the Act of 23. of the Penalty of 20 *l.* by the Month for Recusancy, is *quodam modo* altered, which proves, That the said Clause of Distribution in 23 *El.* extends to Recusancy, &c.

As to 3. it was unanimously resolved, That he, against whom any Judgment is given, either upon *Nihil dicit*, or an insufficient Plea pleaded and a Demurrer upon it, is convicted within the Purview of this Act, for it is true that *non sequitur*, that one is convicted *ergo* he is attainted or adjudged, but it is a good Consequence that one is attainted or adjudged, *ergo* he is convicted, for he who is attainted or adjudged is convicted and more, & *ex vi termini* (that) extendeth to him who is condemned, as *Cicero 7 Verr.* *Convincere adversum testibus. Idem 2 in Catilinam, Conscientia convictus reticuit.* And where by the Statute of 8 *H.* 6. 9. it is provided, That if the Party grieved shall recover by Assise, or by Action of Trespass, &c. and it be found by Verdict, or in other Manner in due Form of Law, that the Party Def. entred with Force into Land and Tenements, &c. That the Party shall recover his Damages treble against the Def. And in 6 *H.* 8. the Case was, That in such Action brought by the Party grieved, if the Defendant's Attorney pleads *Non sum informatus*, the Plaintiff shall recover his treble Damages, for this Word (*found*) has two Significations, *sc.* one by a Jury, and the other by the Judges, and the finding of the Judges, *sc.* Their Judgment upon *Non sum informatus*, or upon *Nihil dicit*, is within the said Act, and so was it adjudged in a Writ of Error *Anno 4 & 5 P. & M.* and all this is reported by *Bendloes*, Sergeant at Law. So I my self heard the Lord *Dyer*, *Mich.* 14

(a) Antea 58. a.  
1 Rol. Rep. 89.

(b) 2 Vent. 188.  
267. Co. Lit.

159. a. Moor 238.  
2 Anderf. 128.

Cawly 61. 1 Anderf.  
139. 140.

(c) 4 Co. 74. b.  
8 Co. 56. b.

145. a. 10 Co.  
39. a. 2 Rol.  
Rep. 393. Co.

Lit. 191. a.  
205. a. 2 Inst.

365. 2 Sand. 351.  
Litch. 25. 2 Bull.

131. 1 Mod. Rep.  
190. Hardres 90.

1 Rol. Rep. 310.  
Palmer 433. 437.

5 Co. 11. a. Litt  
Rep. 111.

(d) Cawly 71.  
1 Anderf. 139.

140. Antea 1.  
88. a. 2 Rol. Rep.

89. 90. Cawly  
61.

Antea 30. a.  
Benlow in Kely.

207. 1 Anderf.  
25. 2 Anderf.

150. Benlow in  
Ath. 1. 1 Rol.

Rep. 97. Dyer  
214. pl. 45. N.

Benl. 11. pl. 6.

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8 & 15 Eliz. say, in the Court of Common Pleas, That so Judgment was given in such Case for the treble Damages upon the Defendant's Default, *Quia fatetur facinus qui judicium fugit*; and the same Law he said, If the Def. pleads an insufficient Bar, which upon Demurrer is adjudged against him.

5 Co. 109. b.

1 Rol. Rep. 90.  
91, 93. Hob. 205.  
29 El. c. 6.  
Antea f. 58. a.

As to the 4. Point it was resolved, That the Act of 28 El. has not taken away the Liberty which the Informer had by the Statute of 23 Eliz. for divers Reasons. 1. The Title is, *For the speedy Execution of certain Branches of the Statute made in the 23d Year, &c.* So that the Makers of the Act of 28 do not intend any Abrogation, but the more speedy Execution of divers Branches of the Act of 23. 2. The Act of 28 gives more speedy Execution only at the Queen's Suit, *sc.* Upon Indictment, For the Queen for the whole Penalty had not Remedy by the Statute of 23 Eliz. but only by Indictment, for the Statute makes it inquirable, &c. before divers Justices named in the Statute, and such Inquiry is always by Indictment; Also in the same Act there is a Proviso, *That every Person guilty of any Offence against this Statute, which shall, before he be thereof indicted, or at his Arraignment or Trial before Judgment, submit and conform himself before the Bishop of the Diocese, &c. or before the Justices, where he shall be indicted, arraigned, or tried, &c. shall be discharged, &c.* By which it appears, That in this new Case of Forfeiture, the Parliament gave the Queen none other Remedy to recover the whole Penalty, but by Way of Indictm. And the Stat. of 28 E. extends only to the Q's Suit by the Way of Indictm. as appears by the Words of the same Act. *viz.* after the Rate of 20 l. for every Month contained in the Indictment, and by divers other Branches in the Act, and namely, that Proclamation shall be made upon the Indictment, &c. to appear, &c. so that this Act gives the Queen none other Remedy than he had before by Way of Indictment, but for the more speedy Proceeding upon the first Fundamental Remedy: But does not give the Informer a more speedy Proceeding, but leaves him to his former Proceeding. 3. This Act of 28 El. gives not the Penalty to any new Person, to whom it was not given before, for the Act of 23. gave the Forfeiture to the Queen, &c. 4. The Words of this Act are, *Every Offender that shall hereafter fortune to be once convicted, shall, &c. pay 20 l. for every Month contained in the Indictment, so that the Sense is, Every Offender that shall fortune to be once convicted upon any Indictment, &c. shall pay 20 l. for every Month contained in such Indictment:* and thereby it appears, that it extends only

Hob. 205.

1 Jones 193.  
1 Rol. Rep. 93.  
94.

Hob. 205.  
Cawly 61.

Cawly 166.  
Owen 37. 1 Lec.  
97. 1 Rol. Rep.  
53.

only to the Case of Indictment for the Queen, and not to the Action Popular, or Information: 5. Upon the same Words, the Defendant shall not take the Benefit of this Clause to bar the Informer, unless he avers that he was convicted at the Queen's Suit, for the Words are, *That shall hereafter fortune to be convicted*, so that if his Fortune is not to be convicted at the Queen's Suit, he is not within this Act, but is left to the Informer. 6. The Statute in the Affirmative, and Regularly Statutes in the Affirmative do not take away precedent Acts Affirmative, unless it is in certain special Cases, as shall be after said: But the Statute of 28 *Eliz.* (as was well observed) has altered the Statute of 23 *Eliz.* in one material Point; *viz.* as to Jurisdiction in these Words, *That every Conviction hereafter for any Offence before mentioned, shall be in the Court commonly called the K's Bench, or at the Assises, or general Goal Delivery, and not elsewhere, &c.* Which Clause without Question, being general, extends not only to the Queen's Suit, but also to the Suit of the Informer: And the said Act of 35. extends not only to the Q's Suit, but gives her other Remedy than by Indictment, *s.* by Action of Debt, Bill, Complaint, Information, and in other Courts, as in the *Common Pleas*, and *Exchequer*, and so as to the Queen's Suit in other Courts the Statute of 28. is altered, but it doth not touch the Popular Suit of the Informer, nor alter the Statute of 28. concerning the Restriction to Courts, as to the Informer, neither does the Act of 3 *Jac. c. 4.* which gives Jurisdiction to the other Justices, as Justices of Peace alter it as to the Informer, for that Act extends only to the King's Suit by Way of Indictment, *s.* by Enquiry only, and doth not mention the Suit of the Informer, but leaves it as it was before: So that this Act of 28 *Eliz.* confines the Informer only to the Court of *King's Bench*, or of Justices of Assise or General Goal-delivery, and with Negative Words, *sc.* and not elsewhere.

As to 5 Objection, The Act of 35. doth not abrogate the Statute of 23. as to the Popular Actions, for 4 Reasons. 1. Before that Act (as hath been said before) Remedy was given to the Queen by Way of Indictment, and to the Informer, by Bill, Complaint, or Information; now that Act intended to give more speedy Remedy to the Queen only, and not to the Informer, and so are the Words of the Preamble, *For the more speedy recovering for and by the Queen's Majesty, of all and singular, the Pains, &c.* So that the Purpose of that Act was not to oust the Stat. of 23. but to oust Delay, and to give

29 El. cap. 6.

Hob. 204, 205.  
Cawly 100, 101,  
122. 3 Kcb. 535.

Cawly 100, 122.

Antea fol. 58. b.



give to the Queen a more speedy Recovery than she had before. 2. The Words of the Body of the Act are, *That every of the said Pains, &c. shall and may be recovered to her Majesty's Use, &c.* This Act has made 3 Alterations. 1. In the Manner of her Remedy, *viz.* where her Remedy was by Indictment before, now the Queen may have an Action of *Debt, Bill, Plaint, Information, or otherwise.* The 2 Alteration is concerning Courts, the Queen is not now confined to the *King's Bench*, or to Justices of Assize, or general Goal-delivery, but may now sue in the *Common Pleas*, or in the *Exchequer*, at her Pleasure. The 3 Alteration was, concerning the charging of one Person at the Queen's Suit, who was not charged before, for at the said Assembly of Justices at *Russel House, Hil. 35 Eliz.* 3 Points were resolved by all the Judges. 1. (a) That a Feme-Covert was within the Act of 1 *Eliz. cap. 2.* and shou'd forfeit 12 *d.* for not repairing to Church every Sunday and Holiday. 2. (b) That the Act of 23. altho' it is more penal, and inflicts Imprisonment for this non-Feasance on him who is not able to pay, yet that a Feme-Covert was within this Statute of 23. 1. Because this Act refers to the said Act of 1 *Eliz.* and without Question she was within the Act of 23. 2. (c) Femmes-Covert were a great Part of the Realm and very dangerous, because they have the Education of their Children, and the governing of their Servants. 3. That forasmuch as the Remedy of the Queen, was by Indictment, and the Feme-Covert was only indicted, and the Husband was not Party to it, he was not subject to the Wife's Forfeiture of 20 *l.* by the Month, For the Husband shall never be charged for the Act or Default of his Wife, but when he is made a Partry to the Action, and Judgment is given against him and his Wife, as for the Debt of the Wife, or for Scandal publish'd by the Wife, or for Trespafs done by her, &c. there the Action of Debt, upon the Case, Trespafs, &c. shall be brought against the Husband and Wife, and the Husband shall plead, &c. and shall be Party to the Judgment: But if a Feme-Covert be indicted of Trespafs, Riot, or any other Wrong, there the Wife shall answer, and shall be Party to the Judgment only, and therefore the Fine set upon the Wife in such Cases, shall not be levied upon the Husband, and therefore the Informer was as to a Feme-Covert in a better Case than the Queen; For in as much as Remedy was given to him for the said Forfeiture, by Action of Debt, Bill, Plaint, or Information, the Informer for the said Forfeiture of the Feme-Covert, might have an Action of Debt, Bill, Plaint, or Information against the Husband and Wife for

(2) 3 Bullstr. 87.  
Hob. 97. 1 Rol.  
Rep. 93, 233,  
234. Cawly 26.  
Sav. 25. Dalt.  
Just. 183.  
(b) Cawly 86.  
Hob. 97.

(c) Bridg. 122,  
123.

Savil 25. 1 Rol.  
Rep. 93.

Cawly 123.

for the Recovery thereof, and so make the Husband Party, but so could not the Queen only by way of Indictment, and therefore the Preamble of the Act was true, *That for the more speedy levying and recovering for and by the Queen's Majesty, of all and singular the Pains, Forfeitures, &c. by virtue of the Statute of 23 year, &c.* The Act gave Remedy to the Queen by Action of Debt, Bill, Plaint, or Information, so that where the Queen for the said Forfeiture of Femes Coverts ought, before this Act, to have stayed till the Death of the Husband, to levy or recover it against the Wife, and if the Wife had died before her Husband, in many Cases the Forfeiture was in Danger of being lost, now this Act in adding Remedy for the Queen by Action of Debt, Bill, &c. has given the Queen present Remedy to recover it against the Husband and Wife, and to this purpose were the subsequent Words added, *viz. In such Sort, and in all Respects, as by the ordinary Course of the Common Laws any other Debt, due by any such Person in any other Cause, shall or may be recovered,* but for the Debt, or Duty due by a Feme-Covert in an Action, &c. brought against the Husband and Wife, the Husband shall be charged for it: and thereupon many Informations upon this Stat. for the Queen, were exhibited against Husbands and Wives, for the Wives Forfeitures upon the Statute of 23 *Eliz.* in the *King's Bench*, &c. and that was the chief Intention of this Branch of 35 *Eliz.* to make the Husbands of Feme-Coverts Recusants, to be charged at the Suit of the Queen for the said Forfeitures of their Wives: So that now the Husbands and Wives may be charged in that Case, as well at the Queen's Suit by Action of Debt, Bill, Plaint, &c. as at the Informer's Suit. But if the King takes his Remedy by Action of Debt, Bill, Plaint, or Information, then no Proclamation can be made thereupon, for that is only upon Indictment, and only upon Indictment before the Justices of Assize, or General Goal-Delivery by the Act of 28 *Eliz.* and now before Justices of Peace upon Indictment also by the Statute of 3 *Jac. Reg. cap. 4.* But the King in Case where he proceeds by Action of Debt, Bill, Plaint, or Information, shall have Execution according to the Common Law, as he should have upon the said Statute of 23 *Eliz.* The Words of the said Act of 35 *Eliz.* are not penned *simpliciter*, *s. That all and singular the Pains shall be recovered to her Majesty's Use,* For, as hath been said, that was not the Intent of the Makers, but *secundum quid & sub modo*, *s. In such Sort, and in all Respects, as by the ordinary Course of the Common Laws, any other Debt*

Cawly 123. Cro. Jac. 481.

Cro. Jac. 481. Cawly 123.

Cawly 123.

Cawly 122.

Cawly 120.

*Debt due by such Person, should or might be recovered or levied,* by which it appears, that this Act alters the Remedy only at the Queen's Suit, that where before she proceeded upon the Indictment according to the Statute, (in which Case the Husband of the Wife Recusant was not charged) now she proceeds by Action, &c. as any other Debt may be recovered at the Common Law; in which Case, for the Debt of the Wife at the Common Law the Husband was charged. And in other Statutes which have the like Reference, no Alteration is made of the Law before, but only as to the Point to which the Reference is made, as it is held in 14 H. 7. 17, 18. in *Everard Digby's Case*, where it is enacted by the Statute of 1 H. 7. cap. 1. *That the Demandant may maintain a Formedon in the Descender or Remainder against the Pernor of the Profits, and the same Pernors to vouch, &c. as if they were Tenants in-deed:* The Case was, That *Everard Digby* brought a *Scire facias* against the Pernor of the Profits, and it is there held, That the Pernor should not vouch in a *Scire facias*, for it shall be intended in such Action in which he may vouch, and the said Words do not alter the Law of Voucher in any other Point than in that to which the Reference is made, viz. that notwithstanding he is not Tenant of the Land, but Pernor of the Profits, that yet he shall vouch, but gives him no new Voucher to other respects, and therefore he shall not vouch in an Action brought against him, in which no Voucher lay before: So in the Case at Bar, the Act of 35 Eliz. shall be intended to extend to that only to which it is referred, and shall not alter or abrogate any Law before. So the Statute of *Westm. 2. cap. 4.* which gives the *quod ei desorceat*, &c. to him who has lost by Default, and gives also to the Demandant to vouch in it, but not *simpliciter*, but *secundum quid*, viz. *Ac si esset tenens in priori brevi si warantum habuit*, extends only to the Point to which it is referred, viz. Notwithstanding he is Demandant, but it doth not alter or abrogate the Law in other Cases; and therefore if the Tenant pleads another Bar, and doth not maintain the first Recovery, he shall not vouch at all; also he shall not vouch other than him in the Reversion; also he shall not vouch in any Action, in which no Voucher lies, *Vide 9 E. 3. 22. 33 E. 3. Counterplea de Voucher 101. 33 H. 6. 16. 14 H. 7. 18.* This Act of 35 Eliz. is all in the Affirmative, and therefore shall not repeal or abrogate a Precedent Affirmative Law before; and the said Rule that *Leges posteriores priores contrarias abrogant*, was well agreed, but as to this Purpose, *Contrarium est multiplex.* 1. In Quality, s. If one is  
an

Cro. Jac. 481.  
Hob. 113. Br.  
Pernor de Pro-  
fits 10.  
Br. Parliament  
24.

Cro. Jac. 481.

Plowd. 113. a.  
206. b. Hob. 299.  
Br. Parliament  
21. Br. Pernor  
de Profits 10.  
2 Inst. 349, 350,  
351, 352.

Hob. 299. 2 Inst.  
352. Cro. Jac.  
121, 481. Hob.  
173. Moor 412.  
1 Co. 25. b.  
Antea 59. a.  
Postea 64. b.  
8 Co. 137. b.  
Stamf. Prærog.  
69. b. 12 Co. 8.  
2 Rol. Rep. 410.  
423. Hawk. Max.  
452. 1 Jones 186.  
2 Inst. 685.  
Godb. 169.

an exprefs and material Negative, and the laſt is an exprefs and material Affirmative, or if the firſt is Affirmative and the latter Negative. 2. In Matter, altho' both are Affirmative, as by the Statute of (a) 33 *H. 8. cap. 23.* it is enacted, That if any Perſon being examined before the King's Council, or three of them, ſhall confeſs any Treason, Miſprifion, or Murder, or be by them vehemently ſuſpected, he ſhall be tryed in any County where the King pleaſes, by his Commiſſion, &c. and afterwards another Law was made, 1 & 2 (b) *P. & M. cap. 10.* in theſe Words, *That all Trials hereafter to be had for any Treason, ſhall be had according to the Courſe of the Common Law, and not otherwiſe:* This latter Act (altho' the latter Words had not been) hath abrogated the former, becauſe they were contrary in Matter: But it doth not abrogate the Statute of 35 *H. 8. cap. 2.* of Trial of Treasons beyond the Seas, notwithstanding the Negative Words, becauſe it was not contrary in Matter, for that was not triable by the Common Law, *Vide* 3 (c) *Mar. Dyer* 132. (c) 3 *Inſt. 11.* *acc.* *Vide Stamford, fol. (d)* 89, 90. So the Statute of (e) 1 *E. 6.* of *Chauntries*, being in the Affirmative, abrogated the Statute of *W. 2. cap. 41.* which gave the *Ceſſavit de Cantaria* alſo in the Affirmative, for the one is contrary to the other in Matter. 3. Contrariety in reſpect of the Form preſcrib'd, as in *Any Townſend's Caſe* in *Pl. Com.* and many other Contrarieties there are, which are not neceſſary to be recited: Only it muſt be known, That forasmuch as Acts of Parliaments are eſtabliſhed with ſuch Gravity, Wiſdom, and univerſal Conſent of the whole Realm, for the Advancement of the Commonwealth, they ought not by any conſtrained Conſtruction out of the general and ambiguous Words of a ſubſequent Act, to be abrogated; *Sed hujusmodi ſtatuta tanta ſolemnitate & prudentia edita* (as *Forteſcue* ſpeaks, *cap. 18. fol. 21.*) ought to be maintained and ſupported with a benign and favourable Conſtruction; for *Forteſcue* there ſaith, *Quod Anglie Statuta non Principis voluntate, ſed totius Regni aſſenſu conduntur, quo populi laſuram illa officere nequeunt, vel non eorum commodum procurare, prudentia enim & ſapientia ipſa eſſe reſcriba putandum eſt, dum non unius, aut centum ſolum cunſultorum vivorum prudentia, ſed plusquam trecentorum electorum hominum, quali numero olim Senatus Romanorum regebatur, edita ſunt.* And therewith agrees the Caſe in 4 *E. 4. 3. b.* 4. *a.* & 12 *a. b.* and the Caſe of *Cheſter Mills* in the *Tenth Part of my Reports, fol. 137. b. 138. a.* 6 *E. 6. Dyer* 72. *pl. 3.* And where the Statute of 16 *R. 2. cap. 5.* enacts, That

(a) 3 *Inſt. 27.*  
*Sav. 57. 1 Anderſ.*  
*derf. 195. 1 Rol.*  
*Rep. 91, 92.*  
*Stamf. Cor. 89. a.*

(b) 3 *Inſt. 25, 27.*  
*1 Anderſ. 107. a.*  
*195. 1 Rol.*  
*Rep. 91.*

(c) 3 *Inſt. 11.*  
*1 Rol. Rep. 91.*  
*92. Dyer 131.*  
*132. Pl. 75.*  
*(d) Stamf. Cr.*  
*89. b. 90. a. b.*  
*(e) 1 Rol. Rep.*  
*91. 2 Inſt. 457. a.*  
*458, &c.*

2 *Rol. Rep. 410.*

*Bar. 304, 309.*  
*Br. Surmuc 29.*  
*Br. Parliam. 52.*  
*8 Co. 72. b.*  
*Co. Lit. 326. a.*  
*1 Rol. Rep. 91.*

all

all the Lands and Tenements of one attainted in a Premunire shall be forfeited to the King, the Case in *Pascha* 21 *Eliz.* was, That one (a) *Trudgin* being Tenant in Tail of certain Lands and Tenements was attainted in a Premunire: and the Question before all the Judges of *England* was, If the Estate Tail was barred or not, and it was resolved by all the Judges, That those general Words had not repealed the Statute of *Donis Conditionatibus*, but that he should forfeit only for his Life, and the Issue in Tail should inherit. And for the same Reason it was resolved in this Case. 1. First, that this Statute of 23 *Eliz.* which has inflicted the Penalty of 20 *l.* by the Month, has not taken away the Statute of 1 *Eliz.* which has given the Forfeiture of 12 *d.* for every *Sunday* and *Holiday*, but that both shall be paid; for the one may well stand with the other: For the Forfeiture of 12 *d.* is forfeited as soon as the *Sunday* or *Holiday* is past, but the 20 *l.* is not forfeited till the End of the Month; so that the 12 *d.* is forfeited by way of Prevention: Also the Forfeiture of the 12 *d.* is given only to the Poor, and the 20 *l.* to the Queen, &c. And the Neglect of Divine Service on the Sabbath and *Holidays* deserves greater Punishment. And that the Statute of 23 *Eliz.* has not taken away the Statute of 1. as to the said Forfeiture of 12 *d.* appears by the Statute 3 *Jac. Regis, cap. 4.* for by the same Act a more speedy Remedy is given for the said Forfeiture for the Sabbath. 2. The said Branch of the Act of 28 *Eliz. viz.* That every Conviction hereafter shall be in the Court commonly called the King's Bench, or before the Justices of Assise, &c. and not elsewhere, doth not abrogate the whole Power of Justices of the Peace, and of other Justices to whom Authority was given by 23. for yet any of them may take an Indictment, and that by benign Interpretation to abrogate as little as may be, Forasmuch as the said Act of 28 *Eliz.* restrains only the Conviction, so that the Power to take the Indictment remains: and so it was held by all the Judges and Barons of the *Exchequer* in *Ed. Plowden's Case*: Also in the same Case it was held by them, That whereas the said *Ed.* was indicted before Justices of Peace, and proclaimed before the Justices of Assise, it was (as to the Proclamation) against the express Letter of the Act: But such Indictment ought to have been removed into the Court of *King's Bench*, and upon that Process to be made, &c. 3. That the Statute of 7 *Jac. cap. 6.* provides, That if a Feme-Covert be convicted, that she shall be committed to Prison until, &c. that this Affirmative

(a) 1 Rol. Rep. 92. Godb. 308. Co. Lit. 130. a. 301. a. 3 Inst. 126. 2 Rol. Rep. 217. 420. 496. 503. Hob. 340. Cawly. 46. Moor 523. 1 Jones 22.

1 Rol. Rep. 94. Dalt. Just. 183. Cawly 27.

29 *Eliz. cap. 6.* Cawley 101.

1 Rol. Rep. 94. Cawly 108.

2 Rol. Rep. 108.

1 Rol. Rep. 94.

native Law doth not take away the Remedy which was given to the King for the Forfeiture of a Feme-Covert by the Statute of 35 *El.* or to the Informer by the Statute of 23 *El.* because all the said Acts are affirmative, but she shall be punished but upon one of them. Also the Negative Clause in the Act of 3 *Jac. viz. That no Person shall be charged for his Wife's Offence, &c.* doth not extend to a Feme-Covert to be charged either upon the Stat. of 35 *Eliz.* at the Queen's Suit, or upon the Act of 23. at the Informer's Suit, for the Words are expressly penned, *That no Person shall be charged for his Wife's Offence, by Force of this Act, viz. of the Act of 3 Jac.*

And where it is objected, That the express Designation of one Person is the Exclusion of all other, that is true in all Acts which are introductive of a new Law, as the said Acts of 31 *E. 3.* & 8 *H. 6.* but here are two Acts of Parliament, and the Act of 35. doth not give it to a new Person, but to the same Person that 23. has given it, viz. to the Queen; and it is but an Act of Addition to give a more speedy Remedy than was given by the Act of 23. As in a Writ of Mesn, the Process at Common Law was Disfress infinite, and altho' the Statute of *W. 2. cap. 9.* gives more speedy Process, and in the End forejudger; yet the Plaintiff may take which Process he will, either at the Common Law, or upon the said Statute, because both are in the Affirmative, and therewith agree *F. N. B. 137. a. 14 H. 7. 10 b. 36 H. 6. 3. a. 3 E. 4. 27. 48 E. 3. 14. 15 H. 7. 16. Stradling's Case, Plo. Com. 207. a. b. 17 Eliz. Dyer 243. 46 E. 3. 4. 21 E. 3. 11. 30 E. 3. 11. 20 H. 6. 11. 29 Ass. pl. 35. 29 E. 3. 24. 8 E. 3. 52. 22 R. 2. Damages 130.*

And it was observed, That in many Cases the Designation of a new Person in a latter Act of Parliament shall not exclude another Person who was authorized to do the same Thing by a precedent Act. It is enacted by the Statute of 8 *H. 6. cap. 16.* that after Office found, &c. he who finds himself grieved, may within the Month offer a Traverse and to take the Lands and Tenements to Farm, and that then the Chancellor, Treasurer, and other Officer shall let them to him to Farm until, &c. *Vide 13 E. 4. 8. a.* And now by the Statute of 1 *H. 8. 16.* he has Liberty by the Space of three Months; and afterwards the Statute of 32 *H. 8. cap. 40.* gave Authority to the Master of the Wards, with the Advice of one of the Council, to make a Lease of the Lands of a Ward or of an Ideot, during the Time they shall remain in the King's Hands; Altho' the latter Act designs another Person, yet it doth not utterly take away the first: For if before any Lease made by the Master of the Wards, the

35 *Eliz. cap. 7.*  
23 *Eliz. cap. 1.*

2 *Inst. 371; 372.*  
&c.

Br. Scire fac.  
146. i. *Roll. Rep.*  
91, 243. *Dyer*  
343. pl. 55. *Benl.*  
in *Kelw. 211. pl.*  
20. *N. Benl. 152.*  
pl. 210. *O. Benl.*  
201. pl. 21.

*Moor 245.*

the Chancellor and Treasurer make one according to the Statute of 8 H. 6. then the said Master can't demise it, and so if the Master makes it first to another, the Chancellor and Treasurer can't demise it to the Party grieved, as *Stamford* holds, *Præv. Regis*, fol. 69. a. b. Where he mentions the said Rule, *Quod (a) leges posteriores priores contrarias abrogant*, 43 *Aff. pl.* 9. the Statute of 13 E. 3. *de Mercatoribus*, which gives the Assise to Tenant by Statute Merchant, shall not take away the Assise which the Tenant of the Freehold had before, but both well stand together. So in 33 H. 8. *Dyer* (b) 50. If it was enacted, that the younger Son should have an Appeal of the Death of his Father, that should not exclude the elder of his Suit, because there are not any Words of Restraint. As to the other Objection, That the Generality of the Words, *All and every*, &c. imply a Negative, because (c) *qui omne dicit nihil excludit*. To that it was answered and resolved, 1. That the said Words are not *simpliciter* general, but *secundum quid*, as has been said, which is a full Answer to this Objection. 2. That in the Principal Case in (d) 33 H. 8. *Dyer* 50. that a Demise made under the Great Seal, of Land within the Survey of the Court of *Augmentation*, by the Authority of the same Book, is not void. (e) *Vide Porter's Case in the First Part of my Reports*, fol. 25. & *Gregorie's Case in the 6 Part of my Reports*, fol. 19. b. and the Statute of (f) 23 H. 8. *cap.* 3. provides generally, *That all Attaints hereafter to be taken, shall be taken in the King's B. or Common Pleas* (but the Makers of the Act do not stay there, but add these Words) *and in none other Court*, *Vide Dyer* 202. b. So it was enacted by the Statute of 6 (g) E. 6. That the Quarter Sessions in the Counties of *Anglesey*, &c. should be always held at *Beaumaris* only, *Et non alibi infra Comitatus Anglesey*, &c. and Sessions were held at *Newburgh* in the same County, and divers Persons there indicted, &c. and 4 & 5 *Ph. & Mar.* it was resolved by all the Judges of *England*, that all was *Coram non iudice* and void, by Reason of the said Negative Prohibition: By which it appears, That the General and Affirmative Words were not the Cause of the Resolution.

And the Chief Justice said, That altho' there be Negative Words in an Act of Parliament, yet in many Cases they shall not bind the *King's Bench*, because the Pleas there are *Coram ipso Rege*; and thereupon he put the Case in 21 E. 3. 55. b. & 21 *Aff. pl.* 12. the Abbot of *Westminster's Case*, That where it is enacted by the Statute of *Westm.* 1. *cap.* 3. That from henceforth nothing be demanded,

(a) 1 Co. 25. b.  
11 Co. 59. a.  
62. b. Cro. Jac.  
121. 8 Co. 137. b.  
12 Co. 8. 2 Rol.  
Rep. 410, 423.  
Hawk. Max.  
452. 2 Inst. 685.  
Godb. 169.  
1 Jones 186.  
(b) Cro. Car.  
172. 1 Rol. Rep.  
91. *Dyer* 50.  
pl. 3.

(c) 2 Inst. 81.

(d) *Dyer* 50. pl. 1.  
*Palm.* 495, 542.  
*Antea* 59. b.  
*Hob.* 173.  
(e) 1 Rol. Rep.  
91, 92, 163. Cro.  
Jac. 481. Moor  
599, 600.  
(f) *Benl.* in *Kel.*  
210. pl. 16.  
*Benl.* in *Ash.* pl.  
16. N. *Benl.* 98.  
pl. 144. *Dyer*  
202. pl. 70.  
Co. Lit. 294. b.  
(g) *Dyer* 135.  
pl. 14. 10 Co.  
77. 2. 2 Rol.  
Rep. 100.

*Raymond* 113.  
*Hardres* 391. Br.  
*Elcapse* 19. 1 Ro.  
Rep. 92. Br.  
*Sanctuary* 12. Br.  
*Reficifer* pro  
*Rege* 17.

manded, nor taken, nor levied by the Sheriff, nor by other; for the Escape of a Thief or Felon, till the Escape be adjudged before Justices Errants; the Case was; That it was presented in the *King's Bench*, that the Abbot of *Westminster* had suffered certain Clerks attainted before the King, which were in the Abbot's Prison, delivered to him out of the *Marshalsey*, to escape, and there *Pole* who was of Council with the Abbot, moved the Court, That by Force of the said Statute, till the Eire, the Abbot ought not to be impeached, by which he should be put to answer, & *non allocatur*, wherefore *Pole* pleaded, that they did not escape. So when a Statute makes a new Law, and assigns certain Justices to execute it; altho' the Justices of the King's Bench are not by express Words authorized by the Act, yet they may execute it, as the said Statute of 8 H. 6. 9. gave Power to Justices of Peace to make Restitution, and therefore Justices of *Oyer and Terminer*, or Gaol-delivery, &c. shall not make Restitution, and so it was resolved as has been said; yet if the Indictment is removed into the King's Bench *Coram Rege*, they shall Award Restitution, and so upon Argument it was resolved in the King's Bench in 4 H. 7. 18. b. and thereupon a Writ of Restitution was awarded, and therewith agree 15 H. 7. 5. b. *vide* 7 E. 4. 18. And the Chief Justice cited a Resolution of the Judges, *Mich. 37 & 38 Eliz.* in this Case, in the General Pardon *de anno 35 Eliz.* there is an Exception of all Penalties or Forfeitures converted to a Debt by Judgment, Order, Decree, or Agreement; now the Question moved to the Justices was, If a Recusant convicted upon Proclamation made according to the Statute of 28 El. should be within this Exception? and it was resolved, not; for the Words of the Stat. are, *Shall be convicted, as if he had been found guilty by Verdict*, and doth not speak of any Judgment: Also, altho' the Parl. upon such Conviction ordains (which is in the Nature of a Judgment) that he shall pay the Forfeitures, &c. yet that is not such a Judgment as is intended within the said General Pardon: But it was resolved, that if he had been convicted and Judgment given thereupon according to the Statute of 23. that such Judgment is within the said Exception; and it was well observed, that the Statute of 1 Jac. Regis, cap. 4. enacts, *That all Statutes made against Recusants in the Reign of Queen Eliz. shall be put in due and exact Execution.*

As to the last Objection, it was resolved, That no such double Charge can accrue to him; but that he may plead; That he was *auter fois* convicted, &c. and so by Plea avoid the double

1 Rol. Rep. 92<sup>d</sup>  
Dall. 25. pl. 8.  
Dall. in Kelw.  
204. pl. 2. Dall.  
in Alh. pl. 2.  
Antea 59. a. b.  
9 Co. 118. b.

9 Co. 118. b. Br.  
Forcib. entr. 27<sup>d</sup>  
Fitz. Ent. 44.  
Dyer 187. b. Br.  
Restitution 11.  
1 Rol. Rep. 92<sup>d</sup>  
94 Palm. 41.  
Cawly 69<sup>d</sup> 108<sup>d</sup>  
165.

Antea 59. b.  
Bridgman 127<sup>d</sup>  
Palm. 40<sup>d</sup>



double Charge. And where by the Statute of 3 Jac. c. 4. it is enacted, That no Indictment, &c. nor any Proclamation, Outlawry, or other Proceeding thereupon, shall be avoided, by Reason of any Default of Form, or lack of Form, or other Defect whatsoever, (other than by direct Traverse to the Point of not coming to Church, or not receiving the Sacrament, whereof such Person shall be indicted) but that the same Indictment shall stand in Force; any such Default in Form, or other Defect whatsoever notwithstanding, the Recusant may well plead any Collateral Bar, as Pardon, Submission, autrefois convict, or other Bar dehors, for this Act extends only to Defects within the Indictment, or other Proceedings.

1 Rol. Rep. 95.  
Cawly 180.  
Doctr. placit.  
277.

Cro. Eliz. 261.  
Cro. Jac. 482.  
Bridg. 121, 122.  
Cawly 78.

Cawly 73.

Cawly 78.

And that the Informer can't charge any who is convicted before at the Queen's Suit, upon the Statutes of 23 Eliz. 35 Eliz. or 3 Jac. Regis. But those who are concealed, and not charged at the King's Suit, the Informer may exhibit Informations against them upon the Statute of 23 El. in the King's Bench, or before Justices of Assise, or General Gaol-delivery, and so charge them, who peradventure otherwise would never be charged, for by the Statute of 23 Eliz. he ought to be charged within a Year and a Day: So that for any Forfeiture before the Year and the Day, no Remedy can be taken, either by the King or by the Informer, because the Time is limited in certain by the said Act of 23 El. &c. and therefore it was said, that in this Case the Informer was *neque falcator, neque messor*, but *spicilegus*, viz. a Gleaner. And that those Recusants, Feme-Coverts, or others, who have not been convicted at the King's Suit, that the Informer may find them, and charge them, otherwise they might escape unpunished: and in the principal Case, for a great Part of the Time, If the Informer had not exhibited his Information, the King wou'd have lost all for so much of the Time as was before the Year, whereas in this Case he shall have two Parts, whereof one shall be to the Use of the Poor, and afterwards Judgment was given against the Defendant.

Cawly 79, 80.  
Cr. El. 138, 583.  
3 Inst. 194.  
1 Leon. 116.  
Vaugh. 243.  
1 Rol. Rep. 95.  
Godb. 158.  
1 H. 7. 3. a. Br.  
Release 41.  
Hurr. 82. Cawly  
76.

Nota Reader, Trin. 31 El. in this Court *inter Stretton qui tam, &c. & Tayler*, it was adjudged, That after a popular Action brought, altho' the King's Attorney will enter *ulterius non vult prosequi*, or if the Defendant pleads a special Plea, altho' the Use is that the Attorney-General replies only, yet if he will not reply, or prosecute for the King, the Informer may prosecute for his Part, for by the Suit of the Informer commenc'd, he has made the Popular Action his private Action, which the King nor any other

other can release, as to his Interest, and the Condemnation or Acquittal of the Party at his Suit is a Bar against all others and against the King: and yet the King in all these Cases before any Action commenc'd by an Informer may pardon and release it, and that shall be a Bar against all People; and this Difference was granted, and denied by none. 1 *H.* 7. 3. *a.* and therewith agree 37 *H.* 6. 4. *a.* 5 *E.* 4. 3. *a.* 2 *R.* 3. 12. Also *Mich.* 39 & 40 *El.* it was adjudged in this Court, That if pending the Information, the Informer *qui tam*, &c. dies, that yet the King's Attorney may prosecute the Suit for the King, for the Information by the Party, shall serve for the King after his Death.

3 *Inft.* 19. 5 *Co.*  
48. b. 50. b. 51. a.  
Sav. 23. Cawly  
78. 80. Moor  
58. Br. Release  
41. Br. Action  
popular 7. 12 *Co.*  
29. 2 *Roll. Rep.*  
33.  
Cro. Jac. 481.  
Cr. El. 583.  
Moor 541.  
2 *Bullst.* 261,  
262. 3 *Inft.* 194.

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Pasch.

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## Pasch. 13 Jacobi Regis.

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### The CASE of the Master and Fellows of *Magdalen College in Cambridge.*

1 Rol. Rep. 151,  
277. Cr. Jac.  
164. Cr. Car.  
175. 2 Bullfr.  
146.

**J**ohn Warren brought *Ejectione firma* against John Smith Master of Arts, which began in the *King's Bench*, *Pascha* 9 *Jac. Regis*, Rot. 288. and declared on a Lease made by Francis Castillion Knight, 20 *Decemb. anno 8 Jac.* of an House in London in *Parochia Sancti Botolphi extra Algate in Warda de Algate*, from the Feast of St. Michael the Archange then last past for 2 Years; by Force of which the Pl. entred, and was possessed 'til ejected by the Def. The Def. pleaded Not guilty; and the Jury gave a special Verdict, viz. That long before the Trespass and Ejection, Rogerus Kelke *Suave Theologia Professor, Magister, & Socii Collegii Sancta Mariae Magdalene in alma Academia Cantabrigia, Scisiti fuer de infrascripto Mesuagio cum pertinen' in Dominico suo ut de feodo in jure Collegii sui prad'*, and so being thereof seised, 13 *Decembr' anno nuper Reginae E. 17.* by their Indenture in *English*, between the said Q. El. of the one Part, and the said Master and Fellows of the said College of the other Part, and enrolled in the *Chancery of Record*, the said Master and Fellows for divers Considerations them thereunto especially moving, did give and grant to our Sovereign Lady the Q. All that their Messuage (which was the Messuage mentioned in the Declaration) with the Appurtenances lying in the Parish of *St. Botolph without Algate, London, To have and*

to hold the said Messuage, with the Appurtenances to our said Sovereign Lady the Queen, her Heirs and Successors for ever; yielding and paying therefore yearly to the said Master and Fellows, and their Successors, at the Feast of St. Michael the Archangel, 15 l. with Clause of Distress, and under this Condition or Proviso following, viz. Provided nevertheless, That if our said Sovereign Lady the Queen, her Heirs and Successors, shall not sufficiently convey, and assure by Letters Patents under the Great Seal of England, the said Messuage with the Appurtenances unto one Benedict Spinola, Merchant of Genoa, and his Heirs, before the 1 Day of April next ensuing, That then this present Indenture, and every Gift, Grant, and Article therein contained, shall cease and be utterly void, and of none Effect, as by the said Indenture, whereof one Part was sealed with the Seal of the said Master and Fellows, and the other with the Great Seal of England appears: and the Jury further found the Act of 13 Eliz. c. 10. by which it is enacted by Authority of Parliament, That from thenceforth, all Leases, Gifts, Grants, Feoffments, Conveyances, or Estates, to be made, had, or suffered by any Master and Fellows of any College, Dean and Chapter of any Cathedral or Collegiate Church, Master or Warden of any Hospital, Parson, Vicar, or any other having any Spiritual or Ecclesiastical Living, or any Houses, Lands, Tithes, Tenements, or other Hereditaments, being Parcel of any such College, Church, Cathedral, Hospital, Rectory, Vicarage, or any other Spiritual Living, &c. to any Person or Persons, Bodies Politick or Corporate, other than for the Term of 21 Years, or 3 Lives, shall be utterly void and of none Effect to all Intents, Constructions and Purposes, &c. and they found likewise the Act of Confirmation of Letters Patents made 18 Eliz. cap. 2. by which it is recited, That where after the 18 Day of November in the first Year of the Reign of the said Queen Eliz. divers and several Honours, Castles, Lands, Tenements, Rents, Reversions Services, and other Hereditaments, were conveyed and assured to the the said late Queen, her Heirs and Successors, by divers and sundry Persons, and Bodies Politick, as well for the Discharge and Satisfaction of great Debts and Sums of Money, as for other good Considerations, for the perfect Assurance, Confirmation, and further Surety of which, it was Enacted by Authority of Parliament, That all Feoffments, Fines, Surrenders, Assurances, Conveyances and Estates in any Manner conveyed, had or made, or to be made at any Time within 7 Years after the End of the Session of the same Parl. To or for our Sovereign Lady the Queen's Majesty, by or from any Person or Persons, Bodies Politick or Corporate, of any Honours, Castles, Manors, Lands, Tenements, &c.

Co. Lit. 43. a.  
44. a. 301. a.  
342. a. 6 Co.  
37. a. 1 Rol.  
Rep. 151. Meor  
459, 593. Cr. El.  
430. Vaugh.  
204. Savil. 129.  
Goldsborow 171.  
1 Brownl. 182.  
5 Co. 14. a. b.

1 Rol. Rep. 152.  
154. 159, 169.  
176. 1 Jones 217.  
Cr. Car. 172. Cr.  
Jac. 364. Postea  
76. a. Moor 338.

## Magdalen College Case. PART XI.

for any Debt, Sum or Sums of Money, or other Consideration whatsoever, shall stand, remain, and be good and available in Law to all Intents, Constructions and Purposes, according to the true Meaning, Intent and Purport of the same, Saving to all and every Person and Persons, &c. And further it was enacted, That all Letters Patents, Indentures and other Writings, sealed with the Great Seal of England, or the Seal of the Dutchy of Lancaster, or the Seal of the County Palatine of Lancaster, then made and granted by the said Queen for any Sum of Money, or for any other Consideration, *essent bona, perfecta*, and effectual in Law, &c. against the said Queen, her Heirs and Successors, according to the Tenor and Effect of the same Letters Patent, &c. And they further found, That the said Q. Eliz. 29 Jan. in the said 17th Year of her Reign, by her Letters Patent under the Great Seal, granted unto the said *Benedict Spinola* (who was then a Free Denizen) the said Messuage with the Appurtenances, to have and to hold to him, his Heirs and Assigns for ever: Which *Benedict Spinola*, 15 Junii Anno 22 Eliz. by his Deed indented and inrolled within six Months in the Court of Chancery, did, for Money, bargain and sell the said Messuage, with the Appurtenances, to *Edw. Earl of Oxford*, and his Heirs; by Force whereof the said Earl entred, and was thereof seised in his Demesne as of Fee, *prout lex postulat*, and he being thereof so seised, *Rowland Broughton* Gent. and *Elizabeth* his Wife, *Cra. Trin. Anno 24 Eliz.* levied a Fine of the said House, with the Appurtenances, to the said Earl of *Oxford* and his Heirs, with Proclamations, which were found at large according to the Statute; and afterwards 9 Maii, Anno 25 Eliz. the said Earl demised the said House to *Edward Hamond* for 51 Years, who 9 N. Anno 26 Eliz. assigned all his Interest and Term for Years in the said House, to one *W. Masburn*, who 4 Octob. Anno 2 Jac. died thereof possessed In-estate, after whose Death *Alice* his Wife took Administration of his Goods, &c. and 1 Feb. Anno 4 Regis nunc took to Husband the said *Francis Castilion*, Knight: And that the said *Roger Kelke* Master of the said College, 8 Jan. Anno Domini 1602. (which was Anno 44 Regni Regina Eliz.) died; and after his Death *Barnaby Gooche*, Dr. of the Civil Law, was elected Master of the said College, and that the said *Edw. Hamond*, in the Name and Stead of the said Earl then Tenant of the said House, paid to the said *Barnaby Gooche* then Master of the said College 15 l. of the Rent aforesaid, to the said Master and Fellows of the said College due at the Feast of St. Michael, Anno Domini 1606; which 15 l. the said *Barnaby Gooche* then Master received, and by Writing under

under his Hand, without a Seal, acknowledged that he had received it; and that the said *Barnaby Gooche*, within 5 Years after he was chosen Master, and after the Receipt of the said Rent, viz. 5 Feb. Anno 4 Regis nunc into the said House, with the Appurtenances, upon the Possession of the said *Francis Castillon* and *Alice* his Wife, did enter *in jure Collegii sui prae*, and the said Master and Fellows of the said College, 5 Feb. Anno 4 Regis nunc by their Indenture under their Common Seal, demised the said House with the Appurtenances, to the said *J. Smith* the Defendant for 6 Years; and that the said *Francis Castillon* Knight, upon the Possession of the said *John Smith*, re-enter'd and made the Lease to the said *John Warren*, prout in the Declaration, who was ejected by the said *J. Smith*, prout in the Declaration: And the Question which the Jury referred to the Court was, Whether upon the whole Matter, the Entry of the said *J. Smith* was lawful or not, &c.

And this Case was argued at the Bar by *Hobart*, then Attorney General, *Mountague* the King's Serjeant, *George Croke* — for the Plaintiff, and *Yelverton* the King's Solicitor, *Thomas Crew* — for the Defendant.

And in this Case four Points were moved and argued at 4 Points. the Bar.

1. If the said Conveyance made to Queen *Elizabeth* by the Master and Fellows of the said College, of the said House, Parcel of the Possessions of the said College, after the said Act of 13 *Eliz. Reginae*, was restrained by the said Act? 1.
2. Admitting the said Conveyance was restrained by the said Act of 13; if the said Act of 18 *Eliz.* has supplied the Defect thereof, and has made it perfect and effectual? 2.
3. Admitting also, That the Act of 18 *Eliz.* doth not extend, nor give any Force to it, If the said Fine levied, and five Years passed, shall bind the Right of the Master and Fellows of the said College for ever? 3.
4. If the said Acceptance of the Rent aforesaid, by the said Master of the said College, should disable or conclude him from entering into the said House? And if any of the said Points should be adjudged against the Defendant, then his Entry was not lawful, and by consequence Judgment should be given for the Plaintiff, *Bonum defendentis ex integra causa, malum ex quolibet defectu*. 4.

As to the first it was objected, That by the Rule of the Law, the King not being named in the Act, is by the Law exempted out of the Act, for the Law gives the King this Prerogative, That for the Dignity of his Royal Person, he is not by Construction of the Law included within these common Words, *Person or Persons, Bodies Politick or Corporate*; and be the Stat. Affirmative, or be it Negative, which is stronger,

Postea 69. b.  
Kelw. 35. a.  
1 Rol. Rep. 153,  
155, 156, 164.  
Plow. 240. a. b.  
Co. Lit. 43. b.  
98. b. 99. a.  
120. a. 1 Jones  
21. Lit. Sect. 141  
Hard. 302.

## Magdalen College Case. PART XI.

it shall not bind the King unless he is specially named, but he shall take Benefit of a Statute altho' he be not named, as the Statute of *W. 1. (a) cap. 36.* which settles reasonable aid (as well to make the eldest Son Knight, as to marry the eldest Daughter) in certain, enacts, That from henceforth of a whole Knight's Fee be given only 20 s. and of 20 l. Land held in Soccage, 20 s. and of more, more, and of less, less: But it was held, That forasmuch as the King was not named, he was not bound by that Law, and to settle that in certainty was the Act of *(b) 25 E. 3. cap. 11.* made, in which Act the King was specially named. *Vide F. N. B. 82. f. acc.* Also the Statute of Limitations, *J. of Meriton, cap. 8. W. 1. cap. 3. & 32 H. 8. cap. 2.* have never bound the King. So the Statute of *W. 2. cap. 5.* which gives the Plea of Plenarty by six Months, doth not bind the King, because the Act is general, and doth not name the King. The Statute of *27 E. 1.* which gives Tryal in the Country by *Nisi prius*, shall not bind the King, *F. N. B. 241. b. 24 E. 3. 23. &c.* So by the Statute of *18 E. 1.* of *Quia emptores terrarum*, the King is not bound, as it is held in *10 H. 7. 23. a. &c.* The Statute of *Magna Charta, cap. 11.* enacts in the Negative, *(c) Quod communia placita non sequuntur curiam nostram, sed teneantur in aliquo loco certo,* but that doth not bind the King, as it is adjudged in *23 H. 3. Tit. Brief, & 31 E. 1. Tit. Prerogative 28.* for he may have a *Quare Impedit* in the King's Bench; and many other Cases were cited upon this large and common Ground, which you may find in our Books, and especially in *Plow. Com. (d) 240. b. in the Lord Barkley's Case. Vide 11 H. 4. Quare Impedit 120. 11 H. 4. 87. Br. Prerogative 57. (e) 12 H. 7. 21. a. in Stoner's Case, 4 E. 3. 34. 30 F. 3. 5. (f) 7 H. 4. 32. b. 4 Mar. Dyer 145.* So in the Case at Bar, forasmuch as the Queen was not named in the said Act of *13 Eliz.* she was not bound thereby, but was at Liberty to take the said Grant as she was before the said Act of *13 Eliz.*

It was likewise urged, That always after the Act of *13 Eliz.* divers Masters and Fellows of Colleges, Deans and Chapters, Masters or Wardens of Hospitals, and others having Spiritual or Ecclesiastical Livings, have made many Estates and Leases to Queen *Elizabeth*, and to the King that now is, which are granted over and transferred to many Persons, and all these were made by the Advice of Men well learned in the Law, and of the Counsel learned of the said late Queen, and of the King also, and the change of such a common and constant Opinion, upon which the Estates and Interests of so many Men depend, will be the occasion of great Vexation, Suits in Law, and the Ruin of many, who have not only spent their Substance,

OR

(a) 13 Co. 27, 28.  
Postea 74. b.  
1 Roll. Rep. 157,  
165. 12 Car. 2.  
c. 24. 2 Inst. 231,  
232. Co. Lit.  
162. b. Regist.  
87. a.

(b) 13 Co. 27.

1 Roll. Rep. 151.  
Plow. 244. a.

(c) 1 Roll. Rep.  
164. Pl. Cr.  
244. a. Plow.  
240. b. 236. b.  
Postea 75. a.  
11 Co. 75. a.

(d) 1 Roll. Rep.  
151.  
(e) 1 Roll. Rep.  
151, 164. Postea  
72. b.  
(f) Br. Treas-  
son 4.

or the greatest Part of it, upon such Estates and Leases, but also have spent much upon new Buildings, and other charges upon them, all which will be utterly lost by the change of the said continual Practice; and in such Changes, *(a) Rerum progressus ostendunt multa que initio praevideri aut praevideri non possunt*: And another saith, *Quod in edificiis lapis male positus non est removendus*; and the Law saith, *(b) Interest Reipublica ut sit finis litium*.

(a) 6 Co. 40. b.  
12 Co. 48. 2 Inst.  
26. Hawks Max.  
311, 452.  
(b) 6 Co. 45. a.  
3 Bulstr. 98.  
Godb. 242.  
Hard. 128.  
1 Roll. Rep.  
152, 154, 167

As to the 2 Point, it was argued by the Plaintiff's Counsel, That admitting the Queen was bound by the said Act of 13 Eliz. yet the said Act of 18 Eliz. has made the Grant to the Queen good and effectual; for admitting the said Grant to the Queen was voidable afterwards, or immediately void and of none effect, yet the Act has made it unavoidable, good and effectual; for the Words are, For the perfect Assurance, Confirmation, and further security of such Assurances, Conveyances and Estates, &c. it is enacted, That they shall stand, remain, and be good and available in Law to all Intents, Constructions and Purposes, according to the true Meaning and Purport of the same. So that it appears by the Words of the Act, that the full Intent of the Makers of it was to make that perfect which was imperfect, and to make that assured which was not sure, and to add greater Force to that (by addition of further Security) which was defective before; and to this Purpose the Makers of the Act, not only in the said precedent Words, but in those which are subsequent, are very Provident, and in a manner curious to take away all Evasion which might be made out of it, and therefore first it is enacted, That they shall stand, remain, and be good and available in Law. And to answer a secret Objection which might be made upon the Words of the Act, *s. All Feoffments, Fines, Assurances, Conveyances, Estates, &c.* that they ought to be sufficient, for an insufficient Thing is reputed in Law for nothing, to oust that, these Words are added, To all Intents, Constructions and Purposes, according to the true Meaning, Intent and Purport thereof; so that the Act doth not say, That they shall be good and available, according to the strict Construction and Operation of the Law (for if they were good and available in Law, then there needed not any Act to make them perfect or sure, or to add further Security) but the Words are, according to the true Meaning, Intent and Purport of them; and without Question in the Case at Bar, the true Intent and Meaning of the Master and Fellows, and of Queen Elizabeth also, and the Purport of the Indenture was to convey the said House to the Queen, her Heirs and Successors, for so much the said Indenture Purports, altho' it be not of Force to convey it.

And



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And it was said, That if a Bishop had made an Estate or Lease to Queen *Eliz.* and afterwards the Act of 18 *Eliz.* was made, that had made good the Estate or Lease to the Queen, altho' it was never confirmed by the Dean and Chapter. So if an Infant had levied a Fine to the Queen, or to others for the Queen's behoof, that after the Act of 18 *Eliz.* the Infant should never reverse the said Fine for Nonage. And many other Cases out of their own Invention were put, which I purposely omit.

1 Roll. Rep. 153,  
155, 160, 162.  
4 H. 7. C. 24

As to 3 Point they argued, That the said Master and Fellows of the said College were a Corporation aggregate of many, and had the entire Fee in them, and by the Stat. of 4 *H. 7.* should be bound by Fine and Non-claim by five Years, as it is adjudged in *Croft and Howel's Case*, *Plow. Com.* 538. and in *Stowel's Case*, *Plow. Com.* 376. *Vide* 7 *E.* 6. 83. *Dyer. Vide*

1 Roll. Rep. 160.  
1 Jones 46. Po-  
ftea 71. a. 2 Rol.  
Rep. 162. *Dyer*  
83. Pl. 77.

24 *E.* 3. 58. and that the Statute of 13 *Eliz.* doth not aid them in this Case, because it extends only to Leases, Gifts, Grants, or other Assurances or Conveyances made or suffered, and notwithstanding the Word (suffered) yet there ought to be an Assurance or Conveyance suffered, to which they shall be Party, as by a common Recovery of Lands had against them, or Recovery of an Annuity by consent against them, as appears in *Eyrene's Case*, 14 *El.* in the Fifth Part of my Reports,

1 Roll. Rep. 152,  
155, 158, 160,  
164, 166, 171.  
Postea 75. b.  
Hob. 97.

fol. 14. b. But this Case of a Fine levied between Strangers and Non-claim by five Years, was never questioned or doubted, and it would be a great weakening of the general Assurance of the Realm, if this Act should be construed against the Letter, to exempt all those named in the Act, so that they should not be bound by any Fine and Non-claim.

1 Roll. Rep. 153,  
155, 160, 162.

As to 4 Point, Forasmuch as the Master, who is the Head of the Corporation, has accepted of the Rent, and made an Acquittance thereof under his Hand, he has concluded himself from entering during the Time that he is Master, and forasmuch as he is concluded, the Fellows, without their Head, can't enter; and thereupon they concluded, That for all these four Points, or for some of them, for if any of them should be adjudged for the Plaintiff, Judgment ought to be given against the Defendant. Against which it was argued by the Defendant's Counsel, and they concluded that Judgment should be given for the Defendant.

Antea 68. a. b.  
1 Roll. Rep. 153,  
161, 163, 164.

And as to the first, which was the principal Point of the Case, it was argued for the Def. and unanimously resolved by the Justices, *Coke* Chief Justice, Sir *John Croke*, Sir *John Dodderidge*, and Sir *Robert Houghton* Justices, upon solemn Argument in Court, that the said Act of 13 *El.* extends to restrain the

the Master and Fellows of the said College from conveying the said House, Parcel of the Possessions of the same College, to the Queen, altho' the Queen was not expressly named in the said Act. And first it was resolved, (a) That the general Words of the Act extend to the Queen, for the Words are, *To any Person or Persons, Body Politick or Corporate*, and without Question the Queen was a Person, as it is said in 10 H. 7. 18. a. (b) *Rex est persona mixta*, and that she was a Body Policick appears in *Flow. Com. in the Case of the Duchy of Lancaster*, 213. and in the *Lord Barkley's Case*, 234. and in many other Books. Then if the Act be general, and the Queen be clearly included within the Words, if she shall be exempt out of the Act, it ought to be by construction of Law, and as this Case is, the Law will not make such Construction for Reasons apparent in the Act itself, *s. i.* The Queen, Lords Spiritual and Temporal, and the Commons who made the said Act, have adjudged, as in the Preamble appears, long Leases made by Colleges, &c. to be unreasonable, and against Reason (*a fortiori*, an Estate in Fee-simple, &c.) and the Law which is the Perfection of Reason, will never expound the Words of the Act against Reason. 2. The Parliament has adjudged them Causes of Dilapidations. 3. To be the Decay of all Spiritual Livings. 4. The Decay of Hospitality. And 5. The utter Impoverishment of Successors Incumbents in the same: And upon all these follows a consequent fearful and dangerous, *s.* decay of the True Religion and Spiritual Worship of God; for it is recorded in History, that there were (amongst others) two grievous Persecutions, the one under *Dioclesian*, the other under *Julian* surnamed the *Apostate*; one of them intending to have extirpated all the Professors and Preachers of the Word of God, and therefore the Record saith, *Occidit omnes Presbyteros*, but notwithstanding that Religion flourished, for, *sanguis Martyrum est semen Ecclesie*, and yet that was a dreadful and grievous Persecution; but the Persecution under the other was more grievous and dangerous, *quia* (as the History saith) *occidit Presbyterium*, for he robbed the Church, and spoiled Spiritual Persons of their Revenues, and took from them whatever they might live on, and thence in short Time ensu'd great Ignorance of the True Religion and Service of God, and thereby great decay of the Christian Profession; for none would apply himself, or his Sons, or any other he had in charge, to the Study of Divinity, when they should have, after a long and painful Study, nothing to live on. *Vide* all this Word for Word in the *Bishop of Winchester's Case*, in the Second Part of my Reports, fol. 44. b. And therefore it was unanimously resolved, That general Statutes,

(a) Hard. 302.  
445. 1 Jones 21.  
1 Roll. Rep. 236.  
5 Co. 14 & 15.  
Eccle Case, Hob.  
97.

(b) 13 Co. 17.  
2 Co. 44. a.  
Cawley 6.

12 Co. 44. b.

1 Roll. Rep. 164.

5 Co. 14. b.  
Hob. 157. Caw-  
ley 64. 2 Bulstr.  
155.

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tates, which provide necessary and profitable Remedy for the Maintenance of Religion, the Advancement of good Learning, and for the Relief of the Poor, shall be extended generally according to their Words, and God forbid that by any Construction, the Queen, who made the Act with the assent of the Lords and Commons, should be exempted out of this Act of 13 Eliz. which provides necessary and profitable Remedy for the Maintenance of Religion, the Advancement of good Literature, and the Relief of the Poor; and out of these Colleges, Deans and Chapters, &c. as well the Church is furnished with grave and learned Divines, for the Instruction of Christians in the True Religion, as the Common-wealth with learned Men for the better Administration of Justice, as well Temporal as Ecclesiastical, which (*f. Religion and Justice*) are the main Pillars which support the King's Crown; and therefore of all others the King, who as hath been said, is *persona mixta, Medicus Regni, Pater Patrie, & (a) Sponsus Regni*, who *per annulum* is wedded to the Realm at his Coronation, should not be exempted out of this Act by Construction of Law, which would be against Reason, and the Cause of Dilapidations, the Decay of Spiritual Livings, of Hospitality, of the utter Impoverishment of Successors, and by Consequence the Decay of Religion and Justice wou'd ensue, and therefore it is true, (*b*) *quod summa ratio est que pro Religione facit*: And *W. 1. (c) cap. ult. summa Curia est facere Justiciam singulis, & omni tempore quando necesse fuerit*. And it is to be known, That the Law never presumes that any one will do a Thing either against Religion, or any Religious Duty: And therefore it is resolved in *Chomeley's Case*, in the 2 Part of my Reports, *f. 51. a.* where a Reversion expectant on an Estate Tail is granted to one for the Life of Tenant in Tail, and it was said, That by Possibility this Grant for Life might take Effect, for the Tenant in Tail having no Issue might become a Monk, and enter into Religion, and then the Grantee might have it during his natural Life: But there it is resolved, That such superstitious and irreligious Profession should not be presumed in Law, *M. (d) 10 H. 6. 8. a. f. S.* brought an Action of Debt against *Johan' Rector de T. in Com. B.* The Defendant said, That he was before the Day of the Writ purchased, dwelling and conversant at *B.* in the County of *N. & non allocatur*, for a Parson shall be intended by Law to be Resident upon his Benefice, for the Cure of Souls which he has there; for a Parson who has Cure of Souls, and is non Resident, *non est dispensator sed dissipator, non speculator sed spiculator*, and therefore no such Thing shall be presumed. So in the Case at Bar, the Law will never make construction against the Maintenance of Religion, Advancement of Learning, and Sustenance of the Poor.

Hob. 97.

(1) 1 Ro. Rep. 165, 166. Raym. 155.

(b) 1 Roll. Rep. 167. 10 Co. 55. a. 5 Co. 14. b. Co. Lit. 341. a. 2 Bullstr. 53. Hob. 295. Hawks. Max. 2. Wing. Max. 3. (c) 2 Inst. 264. 1 Roll. Rep. 167. Postea 74. b.

(d) 1 Roll. Rep. 167. Doctrin. placit. 2. Fitz. Brief 268. Br. Brief 401.

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It is enacted by the Statute of 1 & 2 Ph. & Mar. cap. 8. That it should be lawful, &c. to give Lands, Tenements, &c. by Feoffment, Grant, or other Assurance, or by his last Will and Testament in Writing, to any Spiritual Body Politick or Corporate, notwithstanding the Statute of Mortmain. (a) One Allaine Clarke seised of certain Lands in London in Fee, 4 & 5 Ph. & Mar. by his last Will in Writing devised them to the Master, Fellows and Scholars of Trinity College in Cambridge, and to their Successors for ever, for the finding of certain poor Grammar Scholars, &c. And Mich. 8 & 9 Eliz. a great Question was moved: 1. That the said College consisted not only of Divines, but of others also. 2. That the Intent was to find Grammar Scholars, &c. 3. That in the Statute of 34 & 35 H. 8. Of Explanation of Wills, Bodies Politick and Corporate are excepted out of it, yet per opinionem omnium Justiciariorum utriusq; Banci & Capitalis Baronis Scaccarii; the Devise was held good, and the Statute of 1 & 2 Ph. & Mar. (being made for the Maintenance of Religion, Advancement of Learning, and Exhibition of poor Scholars) ought to be favourably expounded, and altho' the Lands were held of the King, yet in such Case the said Act was expounded to bind the King. So the Words of the Statute of 4 H. 7. of Fines are general; yet the Successor of a Bishop, Parson, Vicar, or any other sole Corporation, shall not be bound by Construction of Law, as a Corporation aggregate of many shall be, for then the Bishop without the Dean and Chapter, the Parson or Vicar without the Patron and Ordinary, &c. might by their Sufferance bind their Successors, which would be the Cause of Dilapidation and Diminution of Spiritual Livings, and therefore by construction of the general Law are excepted, as it is held in Stowel's Case, in Plow. Com. 376. and Howel's Case, Plow. Com. 538. By the Statute of 23 H. 8. cap. 10. it is enacted, That all Conveyances, &c. to the Use of Parish Churches, Churchwardens, Guilds, Companies erected of Devotion, or common assent, &c. and all other like Uses and Intents, should be void: And one Nicholas Guibson being seised of an House and Wharf in London, after the said Act devised them to Avice his Wife, and her Heirs, upon Condition to found a Free-School, and for the Sustenance of certain poor Men and Women, and it was questioned if this Condition was against the said Act of 23 H. 8. Mich. 34 & 35 Eliz. Reg<sup>s</sup>, as it appears in the First Part of my Reports, f. 22. b. and it is there adjudged, that the said general Words of the Act of 23 H. 8. do not extend to take away the said good and charitable Uses, for In-

(a) 1 Co. 25. b.  
1 Rol. Rep. 166.  
418. Jenk. Cent.  
233. 3 Keble 554.  
Co. Lit. 99. a.  
Dyer 255. pl. 7.  
Hob. 122.  
2 Brownl. 246.  
1 Rol. 556.  
Raym. 112. Stiles  
391. Godb. 394.  
2 Kelw. 66. 168.

1 Co. 25. b.

Antea 69. b.

1 Co. 23. a.  
1 Rol. Rep. 166.

1 Co. 25. b. Cr.  
El. 288. Poph.  
6, 7, 8. 2 Bullst.  
34. 1 Rol. Rep.  
163.

struction

Instruction of Youth in good Literature, and for Sustainance of the Poor, for there it is said, That no Age was so barbarous as to abolish Learning and Knowledge, nor so uncharitable as to prohibit relieving the poor People: so that it appears by these Cases, That by Construction of Law, Lands convey'd for the Advancement of Learning, or Sustainance of the Poor, have been preserv'd and maintain'd against the general Words of the said Acts: but it was never seen, That a general Act, made for the Maintenance of Religion, Advancement of Learning, and Relief of the Poor, should be by Construction of Law so expounded, that a By-way should be left open, by which the said great and dangerous Mischiefs should remain, and the necessary and profitable Remedy suppress'd, for the Office of the Judges is, to make such Construction as will suppress the Mischief, and advance the Remedy, and to suppress all Evasions for the Continuance of the Mischief; and such By-way shall never be left open by Construction, altho' it be for the King's Benefit; and that appears by the Act of 1 *El.* by which Archbishops and Bishops are restrain'd from making any Conveyance, &c. other than for 3 Lives, or 21 Years, to any Person or Persons, Bodies politick or corporate, other than to the Queen, her Heirs and Successors; out of which there are three material Things to be observ'd: 1 That the Queen had been included within the said Words of Person and Persons, Bodies politick, &c. if the said Exclusion or Exception had not been made: 2. That if the said By-way had not been contained in the same Act, it never had been rais'd by Construction of Law: 3 That forasmuch as the same Words are used in the said Act of 13 *El. sc.* to any Person or Persons, Bodies politick or corporate, and no Exception or Exclusion made of the Queen, by Consequence it appears, that it was the Intention of the Makers of the Act, that the Queen should be bound thereby, and *eo potius* because they had so good a Pattern before them as the Act of 1 *Eliz.* was, and altho' the true Intent of the said Exception in the said Act of 1 *Eliz.* was for the Support of the Crown, yet by Importunity of Suitors, many Estates and Leases were made to the Queen by Arch-Bishops and Bishops, with Intent to grant them over to Subjects to private Uses; which the King that is now perceiving, of his pious and religious Care, That the Possessions of the Archbishops and Bishops should not be diminish'd by the said By-way, by an Act of Parliament in the first Year of his Reign, and in the first Session thereof, *cap.* 3. reciting, That where Arch-bishops and Bishops by the Law could not convey any of their Possessions to other Subjects, His most Excellent Majesty knowing, That divers with great

2 Co. 24. a. b.

2 Ventris 311.

5 Co. 14. b.

great Suit had endeavoured to frustrate the true Intent of the Law, of his Christian and Princely Piety and Care intending to protect the said Possessions from Alienation or Diminution, for the better Maintenance of God's true Religion and Hospitality, and for avoiding of Dilapidations, and thereby for ever after to avoid all Suits and Importunities concerning any of the said Possessions had of his meer and pious Motion vouchsafed, that it shou'd be enacted, that every Arch-bishop and Bishop and their Successors shou'd after the End of the same Session of Parliament be utterly disabled in Law, to make, levy or suffer any Alienation, Assurance, Demise, Charge or Conveyance of their Possessions to the King, his Heirs or Successors: And that every such Alienation, &c. shou'd be utterly void and of none Effect to all Intents, Constructions and Purposes.

The 2 Reason is, That the King shall not be exempted by Construction of Law out of the general Words of Acts made to suppress Wrong, because he is the Fountain of Justice and common Right, and the King being God's Lieutenant can't do a Wrong, *Solum Rex hoc non potest facere, quod non potest injuste agere*, and therewith agree 13 E. 4. 8. a. and the Case of *Alton Woods*, in the first Part of my Reports, fol. 44. b. 48. a. &c. And altho' a Right was remediless, yet the Act which provides a necessary and profitable Remedy for the Preservat. of it, and to suppress Wrong, shall bind the King, as appears in the *Ld. Berkley's Case*, Pl. Com. 246. If Tenant in Tail before the Statute *de Donis conditionalibus* had aliened, either before Issue to bar the Issue in Tail, or after Issue to bar as well the Donor as the Issue in Tail, it was tortious, but no Remedy was given for it till the Statute *de Donis conditionalibus anno 13 E. 1.* was made, which Act saith *Dominus Rex perpendens, quod necessarium & utile est in prad' casibus apponere remedium, &c. statuit, quod non habeant illi, quibus tenementum sic fuit datum sub conditione potestatem alienandi, &c.* and the Lord Berkley's Case was, That Land was given to King H. 7. and to the Heirs-Males of his Body, and the Question was, Whether the King, forasmuch as he was not expressly restrained by the Act *post prolem masculum suscitatum*, might alien or not? and it was adjudged, That he could not alien, but that he is restrained by the said Act, for 3 Reasons. 1. Because such Alienation before the Statute was wrongful, altho' such Wrong wanted Remedy; for there it is said, it wou'd be a hard Argument to grant that the Statute which restrains Men from doing Wrong and Ill, should permit the King to do it. 2. Forasmuch as the said Act is *statutum remediale* and provides a Remedy for this

2 Inst. 358, 681  
Antea f. 70. a.  
Lib. 5. f. 14. b.  
Cr. Car. 60.  
1 Rol. Rep. 166.  
167. Plow. 246. b.  
Noy 182.

1 Co. 44. b. 48. a.  
1 Rol. Rep. 153.  
lib. 7. f. 22. a.  
Lord Anderson's Case.

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this remediless Wrong, and that it was necessary and profitable to provide such Remedy, it was adjudged, That it should bind the King. 3. Because it was an Act of Prefer-  
 vation of the Possessions of (a) Noblemen, Gentlemen and others, it should also bind the King; and the said Act shall not bind the King only when he took an Estate in his natural Capacity, as to him and the Heirs Males of his Body, but also when he claims an Inheritance as King by his Prerogative; and therefore (b) if Tenant in Tail, after the said Act, be attainted of high Treason, altho' the King claims the Forfeiture as King by his Prerogative, Yet the King is bound by the said Act, for there shall be no Forfeiture to bar the Issue in Tail, as it was at the Common Law, as it is held in 7 H. 4. 31. 8 H. 4. 9. a. b. 7 R. 2. Tit. Aide del Roy. So in the Case at Bar, the said Act of 13 El. has all the said 3 Qualities. For, 1st, it was to suppress Wrong: For Dilapidations and Diminution of Spiritual Livings, &c. as appears before, are Wrongs, and such Wrongs as are *quodam modo* punished by the Law, for the Master, Dean, &c. (c) for Dilapidations or Wasting, or Diminution of the Revenues of their House, might be deprived, as appears in 29 E. 3. 16. a. 2 H. 4. 3. b: 11 H. 6. 20 H. 6. 46. a. 9 E. 4. 34. a. 35 E. 1. (d) Resolved in a Parliament held at Carlisle, *quod vide* before in Richard Li-  
 ford's Case, f. 49. a. and a notable Record in 19 E. 3. Rex amovit custodem hospitalis de suo Patronatu, quia male dispensavit proficua domus, &c. because it is against their Office and Duty to waste the Possessions of their Houses, which are committed to them *pro bono publico*. 2. This Act of 13 El. is *actus remedialis*, and was necessary and profitable to provide such Remedy for the publick Good of the whole Eccle-  
 siastical Estate, &c. 3. This Act is an Act of Preservation, *sc.* to preserve the Possessions of Colleges, Deans and Chapters, Hospitals, &c. and therefore for all these three Causes shall bind the Queen. And where it is enacted by the Statute of W. 2. cap. 5. *Quod quotiescunque aliquis jus non habens tempore hujusmodi custodiar presentaverit, &c.* it was resolved by Coke Chief Justice, Croke, Dodderidge and Hough-  
 ton Justices, That that Act made to suppress Wrong should bind the King, and so the Law is well resolved in a Case which was left doubtful in 35 H. 6. 60. a. b. Ratcliff's Case. And to conclude this Reason, it is notably said in 24 E. 3. 41. a. That the Law is Reason and Equity to do Right to all, and to keep Men from Wrong and Mischiefe, and therefore the Law will never make Construction against Law, Equity, and Right.

The 3 Reason is, That the general Words of Stat. which tend to perform the Will of the Founder or Donor, shall bind the

(a) 1 Rol. Rep. 167. Co. Lit. 392. b.

(b) 1 Rol. Rep. 167.

Co. Lit. f. 392. b. 7 H. 4. 32. b. Br. Treason 4. Antea 68. b.

(c) Godolph. Abr. 174. 176. 307. Antea 49. Postea 98. b. 1 Rol. Rep. 86. 164. 167. Br. de-  
 positioner 1.

(d) 11 Co. 49. a. Ryley's Pla. Par. 335. 2 Rol. 813. 1 Rol. Rep. 86. 100. 335. 2 Bulstr. 279.

2 Inst. 353.

the King, altho' he be not named, and that appears in *Statuto Templariorum anno 17 E. 2.* where it is said, *Ita semper quod pia & celeberrima voluntas Donatoris in omnibus teneatur & expleatur, & perpetuo sanctissime perseveret.* And the said Act de *Donis condic'* is notable to this Purpose, for there it appears that it was necessary and profitable that the Will of the Donor should be observ'd; the Words of which Act to this Purpose are; *Propter quod Dominus Rex pendens quod necessarium & utile est, &c. apponere remedium* (and what was such Remedy) *statuit quod voluntas donatoris in carta doni sui manifeste expressa de cetero observetur;* which bound the King, as it is adjudged in the said Lord Berkley's Case, where fol. 247. it is said, That Men ought to observe the Intent or Will of other Men, and to violate it is ill. And in the Case at Bar, the Intent of the Founder of the said College was for the Maintenance of Divines, the Advancement of liberal Arts and Sciences, and to educate poor young Persons in Virtue and Learning, which God forbid should not be performed; and therefore it is a stronger Case, and in a more pious and publick Degree than the said Act *De Donis condic'* which was enacted for the Preservation of private Estate tailes to particular Families.

The fourth Reason is, That the (a) Master and Fellows (a) 5 Co. 14. a. of the said College are by the said Act disabled to grant; Carrer 13, 16. and then if they be disabled to grant, the Queen can't take from them who are so disabled; the Words of the Act are *All Leases, Gifts, Grants, &c. to be made, &c. or suffered by any Master and Fellows of any College, &c. shall be utterly void and of none Effect, to all Intents, Constructions, and Purposes, any Law, Custom or Usage to the contrary notwithstanding;* which is as much as to say, That every Master and Fellows of a College shall be disabled to make any Lease, Gift, Grant, &c. but that every such Lease, Gift, Grant, &c. shall be utterly void to every Intent and Purpose; for when by Authority of Parliament the Grants to be made by any Master and Fellows of a College are made utterly void to all Intents, &c. thereby the Master and Fellows are disabled by Parliament to make any Grant; for in every Grant there ought to be (b) Grantor, Grantee, and Thing to be granted; and when the Grant of the Thing is made void thereby the Grantor is disabled to grant it. But (c) (c) Huxley 23. this Disability is not *simpliciter, sed secundum quid,* for if Godb. 302. 3 Co. 60. a. 1 Co. 51. a. the Master and Fellows of a College make such Grant, it Co. Lit. 45. a. shall not be avoided by the Master himself, but by his Cr. Eliz. 207, 816. Cr. Jac. 173. Successor, as it was resolved in this Case, and oftentimes 1 Mod. Rep. 204, 205. Carrer 13, 16. 1 Leon. 307. 10 Co. 59. a. has been resolved before now. 1 Rol. Rep. 152, 154, 159, 163, 169.



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The fifth Reason is, in Acts of Parliament which are to be construed according to the Intent and Meaning of the Makers of them, the original Intent and Meaning is to be observed; and it appears that the Intent of the Master and Fellows was, That they would convey the said House to *Benedict Spinola* and his Heirs, and because they could not do it *de directo*, they attempted to do it *ex obliquo*, to grant it to the Queen and her Successors, but upon Condition contained in the same Grant, That the Queen within three Months should grant the said House to the said *Benedict Spinola* and his Heirs. So that it was endeavoured, That the Queen who was the Fountain of Justice, should thereby be made the Instrument of Injury and Wrong, and of a Violation of a pious and excellent Law which she herself for the Maintenance of Religion, Advancement of Liberal Arts and Sciences, and for Sustainance of the Poor, had made. And where the Master and Fellows were seized of the said House to them and their Successors for ever *in jure Collegii pro bono publico*, and to pious and charitable Uses, now it should be converted for the private Use of *Spinola* and his Heirs for ever, *scilicet* (as the Statute of *Carlisle, An. (a)* 35 E. 1. speaks) *Quod olim in usus pios ad divini cultus augmentum & cetera opera pietatis charitatisve fuit erogatum, nunc in sensum reprobum est conversum*: And the Poet doth well reprehend that.

(a) 35 E. 1. c. 1.  
1 Rol. Rep. 167.  
Hobert 148.  
2 Inst. 585.

— *Fuit hac sapientia quondam,  
Publica privatiz seccrære, sacra profanis.*

And it was resolved, That the Law will never make an Interpretation to advance a private and to destroy the publick, but always to advance the Publick, and to prevent every Private, which is odious in Law in such Cases. And therefore it is well said in *Heydon's Case in the Third Part of my Reports, fol. 7. b.* The Office (b) of Judges is always to make such Construction as to suppress the Mischief and advance the Remedy; and to suppress subtle Inventions and Evasions for the Continuance of the Mischief, & *pro privato Commodo*, and to add Force and Life to the Cure and Remedy according to the true Intention of the Makers of the Act *pro bono publico*. And if it should be lawful for Masters and Fellows of Colleges, Deans and Chapters, &c. to convey to the Queen with such Condition to grant to a Subject, without Question such Construction would tend to the Continuance of the Mischief & *pro privato Commodo*: And therefore in 17 *Edw. 3. 59. b.* The Friars Carmelites, who then had no Place of Habitation, obtained of one John Merite who was seized of ten Acres of Meadow

(b) Cr. Car. 533.  
Cro. Argument  
40. 1 Co. 123. 2.  
2 Syd. 41.  
2 Bulltr. 187.  
Hob. 97. 1 Rol.  
Rep. 162, 166.  
Co. Lit. 381. b.

Postea 74. b.

dow held of the Bishop of *Winchester*, to have the said Acres of Meadow for a Place of Habitation for them, and because *John Merite* could not grant 'em the said ten Acres by Reason of the Statute of Mortmain, by Covin betwixt the said *John Merite* and the Friers Carmelites to toll the Bishop's Seigniorie, which was the Impediment, The said *John Merite* to make an Evasion out of the Statute of Mortmain, granted the said ten Acres to the King, his Heirs and Successors, whereby the Bishop's Seigniorie wou'd be extinct, to the Intent that the King should grant over the same to the Friers Carmelites, which he did accordingly; And because it was by Covin betwixt them as aforesaid, to toll the Bishop's Seigniorie, it was adjudged that the said Charter should be repealed, and that the Friers Carmelites should be distrained to deliver the Charter to be Cancelled: Out of which Case, five Things were observed. 1. That he who makes the King, who is the Fountain of Justice, to be the Instrument of Fraud and Covin, and thereupon obtains Letters Patents, that they are void, *quia dolus circuitu non tollitur.* 2. If the King is endeavoured to be made an Instrument to toll the Right of another, and to that End a Man obtains Letters Patents, that such Letters Patents shall be repealed. 3. Altho' such Covin and Fraud was not contained in the Grant made to the King, but appears only by Averment dehors, yet the Patent shall be repealed. 4. Altho' the Friers Carmelites were of a Profession of Religion, and had not any Habitation before, so that it seemed to be a Work of Piety and Charity to provide an Habitation for them, yet *Non facias malum, ut inde fiat bonum.* 5. That such Charter, so obtained, was adjudged to be repealed by the Common Law, and the like Case 21 E. 3. 46. b. The Master and Scholars of *Merton's Case.* Postea 74. b. Vide *Bracton*, in the Beginning of his second Book, *Nihil aliud potest Rex in terris, cum sit Dei Minister & Vicarius quam quod de jure potest: & paulo post, Itaque potestas juris sua est, non injuria, & (observe well) cum sit author juris, non debet inde injuriarum nasci occasio, unde jura nascuntur.* Postea 74. b. And the C. J. said, That if one who intends to sell his Land, had by Fraud conveyed it by Deed inroll'd to the Queen, to the Intent to deceive the Purchaser, and afterwards he sells the Land to another for a valuable Consideration, and makes a Conveyance accordingly, in that Case the Purchaser shall enjoy the Land against the Queen by the Statute of 27 Eliz. 4. for altho' the Queen is not excepted, yet the Act being general and made to suppress Fraud, shall bind the Queen. So, he said, if Tenant in Tail be seized of Land, the Remainder over in Tail or in Fee, and he in Remainder knowing the Tenant in Tail will alien the Land, and by Recovery bar his Remainder, to the Intent to deprive the Tenant in Tail of his

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Birth-right and the Power which the Law gives him to bar the Remainder, and on Purpose and with Intent to deceive the Purchaser, grants his Remainder to the Queen by Deed inrolled, and afterwards Tenant in Tail for a valuable Consideration aliens the Land by a common Recovery, and dies without Issue, the Purchaser shall enjoy the Land,

(a) Co. Lit. 3. b. against the Queen, by the said Statute of (a) 27 Eliz. the Words of which are, *That every Conveyance, &c. made, &c. to the Intent and of Purpose to defraud and deceive any Purchasers, &c. shall be deemed only against such Purchaser, &c. to be utterly void*; In which Words it is to be observed, that such former fraudulent Conveyance made by the Vendor himself, is not only restrained, but generally, That every Conveyance made of Purpose and Intent to deceive a Purchaser, shall be void; and therefore the Conveyance of the Remainder to the Queen, of Purpose and Intent to deceive a Purchaser is directly within the Words and Purview of the Act; and of such Opinion was Popham Chief Justice openly in the Exchequer Chamber. And the said Cases of

(b) Antea 73. b.  
74. a.  
(c) 1 Rol. Rep.  
154. Co. Init.  
44. a. 10 Co.  
113. b. 11 Co.  
87. a. Antea.  
74. a.  
(d) Antea 70. b.  
1 Rol. Rep. 167.

(b) 17 E. 3. 59. b. & (c) 21 E. 3. 46. b. are stronger than this is, where the Party grieved was relieved by the Common Law, forasmuch as the King can't be an Instrument of Fraud and Deceit, & cum sit author juris, non debet inde injuriarum nasci occasio, unde jura nascuntur. Vide (d) Cholmeley's Case in the second Part of my Reports, fol. 51, 52. And it was said, That the Law has given the King a great Prerogative above any of his Subjects, that where by (e) Fraud or false Suggestion he is deceived, that he himself in such Cases shall avoid his own Grant, *jure Regio*, and that appears anno 21 E. 3. 47. b. in the Earl of Kent's Case, & Stamford prerog. Regis 84. a.

(c) Br. Parent  
14. Br. Petition  
11. Dyer 87. pl.  
100. 1 Co. 44. a.  
52. a. 2 Rol. 191.

The sixth Reason, That the Statute has made void all Leases, Grants, &c. other than for 21 Years, or 3 Lives, whereupon the accustomed Rent or more is reserved, which being express and demonstrative of these two particular Cases, excludes all others.

And as to all the Cases which have been put on the other Side, it was resolved, 1. That none of them impugn any of these Reasons or Grounds. 2. That where the King has any Prerogative, Estate, Right, Title, or Interest, that by the general Words of an Act he shall not be barred of them, as in the said Case of reasonable Aid, the King has an Estate and Interest in it, and therefore the general Words of the Act of W. 1. (f) cap. 46. shall not extend to it. Also the King has a Prerogative (g) *quod nullum tempus occurrit Regi*, and therof. the general Acts of Limitations, or of Plevary shall not extend to him: so the King by his Prerogative

(f) Antea 68. b.  
1 Rol. 157.  
(g) Co. Lit. 41. b.  
60. b. 118. a.  
294. b. Hob. 347.  
152. Lit. Rep.  
99, 340. 2 Inst.  
273, 360. Godb.  
297, 305, 312,  
317. Plowd. 321. a.

[Hard. 24, 25. 1 Rol. Rep. 165. Palm. 354, 357. 2 Rol. Rep. 422. 7 Co. 28. a.]

Prerogative may sue in what Court he pleases, and of this Prerogative he is not barred by the general Purview of the Act of *Magna Charta*, c. 11. & *sic de ceteris*. But in the Case at Bar, the King is not excluded of any Estate, Right, Title, Interest or Prerogative that he had before the Act in the said House; and therefore for all these Reasons it was concluded, That this Act of 13 *Eliz.* should bind the Queen. *Nota* Reader, That the general Statute of 32 *H. 8. cap. 36.* of Fines for avoiding of Controversies shall bind the King, as appears in the 7 *Part of my Reports*, fol. 22.

11 Co. 68. b.  
1 Roll. Rep. 164.  
Plowd. 236. b.  
240. b. 244. a.

As to the Number of the Leaves which have been made since the Statute of 13 *Eliz.* by Masters and Fellows of Colleges, Deans and Chapters, Masters of Hospitals, &c. to that it was answered, 1. That it was more *ex consuetudine Clericorum*, who imitated Prefidents of Leaves made before 13, than of any sage Advice of Men learned in the Law. 2. *Multitudo errantium non parit errori patrocinium.* 3. The Inconvenience is greater, and concerns more Persons, and in a more high Degree on this Side than on the other; for in the famous Universities of *Cambridge* and *Oxford* there are 42 Colleges, besides the Colleges of *Westminster*, *Winchester*, of *Eaton*, and *Gresham*, &c. 2. There are 24 Deans and Chapters; Archdeaonries 60. Dignities and Prebends in Cathedral Churches 400. Parsonages and Vicarages 8803. and Hospitals an exceeding great Number; so that to give all these, and their Successors, Power from Time to Time for ever by a Mean, or by-way to alien the Possessions of the Colleges, Deans and Chapters, Archdeaonries, Prebends, Parsonages, Vicarages, Hospitals, &c. which were given to Religious, Pious, Charitable and Publick Uses, would be of greater Inconvenience and Consequence than the Destruction of certain Estates and Leaves made since the Act of 13 *Eliz.* of the Possessions either of Ecclesiastical Persons, or of the Poor, originally given for the Maintenance of Works of Piety and Charity, and now transferred to private Persons, and converted to private Uses, and the restoring of these Possessions to their original Foundation or Indowment, *s.* for the Maintenance of Religion, the Advancement of Liberal Arts and Sciences, Sustainance of the Poor, and other Works of Charity, *pro bono publico.* 4. It would tend to the great Prejudice of Archbishopricks, and Bishopricks, for if Deans and Chapters should have Power to alien not only their Possessions, but their Cathedral Churches, where would then be *Cathedra Episcopi*? and where would be his Prebendaries *qui praberent auxilium Episcopo*, in Consultation for the suppressing of Heresies and Errors, and in the true Instruction of Men in Religion, and the Spiritual Worship of God committed to their Charge, and in the celebration

Cro. Arg. 75.  
Hardr. 98, 343.  
4 Co. 94. a.

1 Roll. Rep. 170.

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of Divine Service, &c. So of Arch-deacons, &c. 5. There never was any judicial Opinion in any Court, That the Queen was not bound by the Act of 13 *Eliz.* but on the other Side, it has been often resolved in the highest Court of Justice, That Queen *Elizabeth* was bound by the said Act, and therefore it was resolved in the Parliament held Anno 43 *El.* by *Popham* and *Anderson* Chief Justices, and divers other Justices, Assistants to the Lords in Parliament, That the Queen was bound by the said Act of 13 *Eliz.* which I have reported in my 5 *Book*, fol. 14. in the Case of *Ecclesiastical Persons*, which Resolution of the Judges, the Lords and Commons in Parliament well allowed of, and therefore in the Act of Confirmations, at the same Parliament of Grants, &c. made to the Queen, and of Grants made by the Queen, (*s. 43 Eliz. cap. 1.*) in the Clause of Grants, &c. made to the Queen, there is an Exception in these Words, *other than Conveyances or Estates heretofore had or made by any Ecclesiastical Person or Persons, Bodies Politick or Corporate, not having Power or Ability by the Laws of the Realm to make the same*; by which Words the whole Parliament well approv'd of the said Resolution of the Judges as to this Point.

Also at the Parliament held 1 *Jac.* when the Bishops Bill was read, to restrain them from conveying to the King, &c. it was moved by the Right Reverend Archbishop *Whitgift*, That Deans and Chapters, and others having Ecclesiastical Livings, &c. should be restrained and inserted in the said Bill also, as well as Archbishops and Bishops: And it was again resolved by the Justices, Assistants at the same Time, That they were restrained by the Stat. of 13 *Eliz.* from making any Conveyance to the King of any Part of their Possessions, and so it was said, it had been resolved before that Time, and therefore they were omitted in the said Bill, concerning the Disability of Archbishops and Bishops at the same Parliament *de Anno 1 Jac. Regis.* And of what Authority the Resolution of the Judges Assistants in Parliament is, appears in 39 *F. 3. i. a. b.* The Duke of *Lancaster*, and *Blanch* his Wife, brought a *Scire facias* against the Lady *Latimer*, and a Question was moved concerning the Abatement of the said Judicial Writ, and there *Thorpe*, Chief Justice, informed the Court, That he was in Parliament when such a Question was debated, and there it was resolved, That the Writ should not abate: To which *Chavendish*, Serjeant, said, My Lords, you are our Judges, and we have none other Judges but you, in this Place; also that which was resolved in Parliament is not of Record, and

Antea 69. b.  
 1 Roll. Rep. 152,  
 155, 158, 160,  
 164, 166. Hob.  
 97. Carter 13.

and if you will adjudge that we shall Answer, we will readily Answer: To which *Thorpe* Chief Justice (who gave the Rule of the Court) said, We who are Judges may remember it as well as if it was in Writing, and we will not adjudge the Reverse of what is adjudg'd there, wherefore Answer; upon which Book the Chief Justice strongly rely'd, as well for the Authority of the Resolution of the Judges in Parliament, as for the Credit of the Report of the Judges. *Nota* Reader, As it is observed in the Case *de Anno 43 Eliz. f. 14.* the said Act of 13 *Eliz.* has been always construed beneficially to prevent all Inventions and Evasions against the true Intention of the same Act, as appears there by divers Resolutions there reported: And also that it has been often held, that where the Statute says Master and Fellows of any College, be the College incorporated by the same Name, or by the Name of Warden and Fellows, or Warden and Scholars, or Warden, Fellows and Scholars, or by the Name of Master, Fellows and Scholars, or Master and Scholars, or Provost, Fellows and Scholars, or by any other Name of Corporation, and be the College Temporal for the Advancement of Liberal Arts and Sciences, or to educate Youth in good Literature, or meer Ecclesiastical, or mixt, every such College is within the Provision of this Act; the same Law where the Statute says, Master or Warden of any Hospital, be the Hospital incorporated by any other Name, or be it a sole Corporation, or a Corporation agregate of many, the Statute extends to all manner of Hospitals, & sic de cateris, for this Act has always had a benign and favourable construction.

As to 2 Point it was resolved, That the Statute of 18 *Eliz. c. 2.* has not given any Force or Effect to the said Grant made to the Queen, but that after this Act the Grant remain'd of the same Force as it was before this Act; and that for 2 Reasons: 1. This Conveyance to the Queen is out of the Words of the Act of 18 *Eliz.* for 2 Reasons: 1. Because the Words of the Statute are, *Where since the 18th of November in the first Year of her Majesty's Reign, divers and sundry Manors, Lands, Tenements, &c. have been conveyed and assured to her Highness, her Heirs and Successors, by and from divers and sundry Persons and Bodies Politick, as well for Satisfaction of great Debts and Sums of Money, as for the other good Considerations; for the perfect Assurance, Confirmation, and further Surety whereof, Be it enacted, That all Feoffments,*

Roll. Rep. 154.  
Antea 67. 2a.  
Hard. 72a.

L 4  
Fines,

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*Fines, Surrenders, Assurances, Conveyances and Estates &c. to or for our Sovereign Lady the Queen, her Heirs and Successors, by or from any Person or Persons, Bodies Politick or Corporate of any Manors, Lands, Tenements, &c. for any Debt, Sum or Sums of Money, or other Consideration whatsoever, shall stand, &c. good, &c.* so that it appears, That only such Conveyances are established by this Act, which are made for satisfaction of Debts and Sums of Money, or other good Consideration, which Words in the Preamble are joined to the Body of the Act, for immediately after the same Words, the Statute says, for the perfect *Assurance, &c. whereof, Be it enacted,* and therefore altho' the Words are in the Body of the Act, *For any Debt, Sum of Money, or other Consideration whatsoever,* omitting (good) before Consideration, yet it is necessarily implied, not only by the said connexion of the Preamble to the Purview, but also is implied in the Word (Consideration) for *An. 16 Eliz. Dyer 336. b.* Consideration is described to be a Cause or Occasion meritorious, requiring a mutual Recompence in Fact or in Law, and inasmuch as the said Grant to Queen *Eliz.* by the said Master and Fellows of the said College, of the said House, was not for any Debt, Sum of Money, nor other good Consideration, for this Cause the said Grant was out of the Letter of the said Act: And it was observed, that the Queen should never pay the said Rent reserved on the said Grant, for the Rent is payable only at the Feast of *St. Michael* the Archangel, and by Force of the said Condition which is Compulsory, the Queen ought to grant it over before the first Day of *April*, or forfeit her Estate. 2. There was not only an Omission of a good Consideration, but also an Addition of an ill and fraudulent Practice, to make the Queen, who was the Fountain of Justice, to be an Instrument, and that constrictively by Condition (which in Truth was against the Honour and Dignity of the Queen) to convey it to a Subject, the said *Benedict Spinola*, and all this to make an Evasion (if possible) out of the said Act of 13 *El.*

3. Admitting the said Grant had been for the Satisfaction of a Debt, Sum of Money, or other good Consideration, yet the said Act of 18 *Eliz.* shall not be extended to this Case; for the better Apprehension of which, and for the true Understanding and Construction of the said Act, it must be known, That as to this Purpose there are five Kinds of Disabilities or Imperfections whereby Deeds or other Instruments and Conveyances to the Queen may be impeached. 1. In respect of the Disability of the Person of the Grantor. 2. By Reason of the Nature of the Thing granted. 3. Of the Estate of the Grantee. 4. Of the Manner of the Grant which has not legal Foundation. 5. In respect of the Omission of some Circumstance requir'd by Law, but having a firm Commencement or Foundation. As to the first,

Hardres 72.  
Carter 139, 143.  
Dyer 336. b.  
pl. 24.

first, Persons are disabled either by Common Law, or by Act of Parliament; by Common Law, as by Reason of Infancy, Profession, Ideocy, *non sana memoria*, Coverture, &c. Also of these Disabilities by Common Law, some are absolute, as Infants or Monks, who can't do any Act which shall bind them, but that by Law it may be in Time avoided; and some Disabilities are *secundum quid* and not *simpliciter*, and therefore if an Ideot, *non compos mentis*, Feme covert, makes any Conveyance, unless it be by Fine or Recovery, they are avoidable: So a Bishop without the Dean and Chapter, a Parson or Vicar without the Patron and Ordinary, a Prebendary without the Bishop, Dean and Chapter, &c. and such like, have Power to dispose of their Possessions during their Incumbency, but not to prejudice their Successors. Disability by Parliament, as Master and Fellows of Colleges, Deans and Chapters, and others named in the said Act of 13 Eliz. and now Archbishops and Bishops by the Statute of 1 Jac. Regis, cap. 3. all which are disabled to do any Thing in Prejudice of their Successors. As to the 2. in respect of the Nature of the Thing granted, as if the Donee in Tail holds of his Donor by Fealty, and the Donor by Deed enrolled grants Fealty to the King, this Grant is merely void, because it is an Incident inseparable to the Reversion, as it is held in 26 Ass. p. 66. So if a Founder of a College, &c. will grant his Foundership to the King by Deed enrolled, it is void, for it is inseparable to the Blood, as it is held *temp. H. 8. Brook Tit.* As to 3. in respect of the Estate, as if Tenant in Tail of Land by Deed inrolled grants the Land to the Queen in Fee, it shall not bind his Issue in Tail in respect of his Estate Tail. 4. As to the Manner of the Grant, which has not a legal Foundation, as if a Man seised of Land in Fee Grants the Land after his Death to the Queen, her Heirs and Successors, or such like, which are against the Rules of the Law. 5. As to the Omission of some Circumstance, as if a Man is seised of Lands in Fee, and by Deed, in Satisfaction of a Debt or Sum of Money, or other good Consideration, grants it to the Queen, her Heirs and Successors, and this Deed was never inrolled, here was a good Commencement, but it wanted Inrollment.

For the first it must be known, That the general Words of the said Act of 18 Eliz. shall not enable any Person to make any Conveyance, who was disabled by the Common Law, as if an Infant had conveyed Land to the Queen by Deed enrolled, that is not established by the said Act, because the Person of the Infant, during his Minority, was utterly disabled: So if an Infant had levied a Fine to the Queen before the said Act of 18 Eliz. and afterwards the said Act was made, yet

Co. Lit. 2, 3.

Br. Reservation  
32. Br. Frank-  
Marriage 5. Br.  
Grant 74, 140.  
Br. Incident 10,  
33. Br. Tenure  
28, 95.

Postea 78. a.

Cr. Jac. 364.



yet the Infant, notwithstanding the Statute, might reverse the Fine by Writ of Error; and so it was resolved *M. 32. & 33 Eliz. in B. R.* by *Wray* Chief Justice & *totam Curiam* in *Vaughan's* Case. And the Reason thereof is proved by the Rule of our ancient Books, *f. in 22 E. 3. Corone 276.* And it is enacted by the Statute of *W. 2. cap. 12. Quod si appellatus de feloniam, &c. se acquietaverit, &c. restituant hujusmodi appellatores damna appellatis.* And the Case was, That an Appeal of Death was brought against a Monk, who was acquitted, and thereupon he prayed his Damages according to the said Act, but (because a Monk was a Person disabled by the Common-Law to recover any Damages, and the general Words of the Act do not enable any Person who was disabled by the Law) for this Cause it is there held, That he should not have any Damages: the same Law as there *tenetur*, if an Appeal be brought against a Feme-Covert, and she be acquitted, she shall not have Damages, for she is disabled by the Law to sue alone. It is enacted by the Statute of *Marlebridge, cap. 6.* That the Lord by Knights Service shall not lose the Wardship by Feoffment made by Collusion, *Veruntamen non licet eis hujusmodi feoffatos sine judicio disseisire, sed breviam habeant de hujusmodi Custodia sibi reddenda,* yet if the Tenant infeoffs the Villain of the Lord upon Collusion, the Lord may enter and expel him, and shall not be put to an Action, as *tenetur 33 H. 6. 16.* for the general Words of the Act shall not enable the Villain who is disabled against his Lord by the Common-Law, and therefore if the Lord brings an Action against him, according to the Letter of the Law, he shall be enfranchised: *a fortiori* in the Case at Bar, when the Master and Fellows of the said College are disabled by the Act of Parliament *de anno 13 Eliz.* to make a Grant to bind their Successors, the general Words of the Act of 18 *Eliz.* shall not enable them to make any Estate against the said Act of 13 *Eliz.* So if a Bishop without the Assent of the Dean and Chapter, by Deed inrolled, had granted Land to the Queen, her Heirs and Successors, and afterwards the Stat. of 18 *Eliz.* is made, this Grant is not made good against the Successor, for the Person of the Bishop is disabled to grant it without the Assent of the Dean and Chapter, to bind his Successor; and so it was resolved in 23 *Eliz.* as the Lord *Dyer* reports, which I have under his Hand, but the same is left out of the printed Book: the same Law of a Prebendary, Parson, &c. But know Reader, That there is a Difference between a general Act, *f. by or from any Person or Persons, Bodies Politick or Corporate,* as the said Act of 18 *Eliz.* and an Act which specifies and mentions particular Kinds of Bodies Politick and Corporate, as the Statute of

1 Rol. Rep. 163.  
2 Inst. 383, 384,  
385.

2 Inst. 638.  
22 E. 3. Coron.  
276. 9 Co. 73. 2

3 Inst. 109, 110.

*1 E. 6. cap. 14. of Chantries vers. finem, by which it is enacted, That every Gift and Grant heretofore made to the late King and to his Heirs, or to our Sovereign Lord the King that now is, and to his Heirs, by any Archbishop, Dean, Archdeacon, Treasurer, Prebendary, &c. of any Manors, Lands, Tenements, &c. to any of the said Benefices, Prebends, &c. belonging, shall be good and effectual in the Law to all Intentis and Purposes. And in Pasch.*

*7 Regina Eliz. inter Wharton & Morly in the Exchequer, the Case was, That a Prebendary of York by Deed indented granted Parcel of the Possessions of his Prebend to King H. 8.*

Cro. Eliz. 24.  
1 Leon. 332.  
1 Rol. Rep. 152.  
170.

his Heirs and Successors, and altho' the Deed was inrolled, and the Grant was made without Assent of the Bishop, Dean and Chapter, That yet the said Grant was adjudged good, because the Prebendary was expressly named in the Act. 2. If a Grant had been made to the Queen of an inseparable Incident, as of a Foundership, or of the said Services of the Donee in Tail, the Act of 18 Eliz. would never make such Grant good, because such Things are not grantable. 3. If Tenant

Cro. Jac. 264

in Tail by Deed grants his Land to the Queen, such Grant is made good against the Issue in Tail by the said Act of 18 Eliz. for the Person of the Tenant in Tail is able, and he has Power over the Land, and so was it held in *Vaughan's Case*: But if Husband and Wife by Deed grant the Land of the Wife to the Queen, that is not made good by the said Act to bind the Wife after the Coverture, or her Heirs, for there the Person of the Feme-Covert is disabled to convey her Land, unless it be by Fine upon due Examination, and so also was it held in *Vaughan's Case*: 4. When the Manner and Composition of the Deed is void in Law, as in the Case which has been put, If a Man seised of Lands in Fee by Deed for a good Consideration grants the Land (a) after his Death to the Queen, her

Heirs and Successors, such Grant is not made good by the general Words of the Act of 18 Eliz. and therewith agree 38 H. 6. 33. b. the Abbess of *Syon's Case*, and the *Earl of Leicester's Case*, *Plow. Com.* 400, &c. a stronger Case than this is, (b) *Que malo sunt inchoata principio, vix est ut bono peragantur exitu. Vide*

4 E. 4. 31. 12 H. 4. *Formedon* 15. 5. When the Person is able, and has Power over the Land, and the Deed is good and legal, but wants Circumstance, as Inrollment or the like, there such Deed is established, and such Omission supplied by the said Act of 18 Eliz. for the Act makes the Conveyance good, according to the Intent and Purport thereof; and in such Case the Purport of the Deed is sufficient enough, altho' it was not of any Effect to pass the Thing,

(a) Antea 77. a.  
Br. Grant 60.  
Br. Parent 29.  
Co. Lit. 48. b.  
Cro. Eliz. 254.  
Hob. 171. 2 Rol.  
10. 66. Palm. 30.  
Moor 394. 423.  
881. 2 Anderk.  
29. 2 Co. 55. b.  
5 Co. 94. b.  
1 Rol. Rep. 109.  
138. 253. 254.  
261. 1 Rol. 828.  
2 Bulst. 274. 303.  
Cr. Jac. 376. 565.  
Godb. 264. 265.  
(b) 4 Co. 2. b.  
10 Co. 61. b.  
62. a. 2 Bulst. 47.  
192. 4 Co. 90. a.  
Cawley 214.

3. The said Act of 18 *Eliz.* might have some Operation as this Case is upon the said Grant to the Queen, inasmuch as the said Dr. *Kelke* the Master of the said College was then alive, and the Act of 13 *Eliz.* has disabled the said Master and Fellows as to the Successors of the said Master. And this Point was so concluded, *Quod ubi quid generalit̄ur conceditur, inest hac exceptio, si non aliquid sit contra jus fasque.* And the said Act of 43 *Eliz. cap. 1.* has explained and expounded this Act of 18 *Eliz.* as appears before. And *nota* Reader, If the Act of 18 *Eliz.* should make good Conveyances made by Persons disabled, it would not make effectual Estates made before the Act, but give Liberty within seven Years after to make them, which the Statute never intended, for thereupon great Prejudice and Mischiefe would ensue.

Co. Lit. 262. a.

As to 3d general Point it was resolved, That the said Fine and Non-claim by five Years should not bar the Right of the said College for two Reasons. 1. The Words of the Act of 13 *Eliz.* are, *That all Leases, Gifts, &c. Conveyances and Estates, had, made, done or suffered by any Master and Fellows, &c.* So that in the Case at Bar, there is a Conveyance and Estate permitted or suffered by the Master and Fellows of the said College, and that these Words shall not be extended only when the Master and Fellows suffer a Recovery, &c. against themselves, as Party thereunto, but generally according to the Letter, when they suffer others to levy a Fine with Proclamation, and suffer also 5 Years to pass without Claim, and altho' the Conclusion of the Purview of the Act is, *shall be utterly void and of none effect to all Intents, Constructions and Purposes,* yet by Construction it shall be so taken, that the said Fine levied with Proclamation, &c. shall be void and of none Effect to bind the Right of the Master and Fellows of the said House: and it would have been of none Effect to have prohibited them to bar the Right of their Colleges by Conveyances made by the Master and Fellows themselves, and to have left them Power by their Permission, or Sufferance, and Non-claim to bar it, and to that Purpose these Words, *permitted or suffered,* were added. The 2d Reason was, That forasmuch as the said Estate conveyed to Queen *Eliz.* was of Force during the Life of Dr. *Kelke*, then Master, and that he was alive at the Time of the Fine levied, and all the Proclamations passed in his Time, so that none could have made an Entry or Claim during his Life, and that Dr. *Gooch* within 5 Years after his Death did enter into the said House, claiming it to be the Right of him and of the Fellows of the said College, for these Causes also it was resolved, That this Entry has avoided the Fine. *Vide 10 H. 8. 6. Stowel's Case, Plow. Com. 374, 376. Croft & Howel's Case, Plow. Com. 538.*

Antea 69. b.

As

As to 4th general Point, that was not thought worthy of any Question, for inasmuch as the said Body Politick in this Case is a Body Aggregate of many, the Master alone can't by his (a) Acceptance deest any Right or Interest which is in him and his Fellows, or conclude him (especially it being without (b) Deed) to enter into the said House. *Vide*

7 H. 7. 9. b. 9 E. 4. 39. 18 E. 4. 8. b. *Plow. Com. 91. b. &c.*

And according to these Resolutions Judgment was given, *quod querens nihil caperet per billam.*

(a) Raym. 195.  
 1 Rol. Rep. 172.  
 (b) Br. Tresp.  
 288. Br. Corporation 47, 50, 51.  
 52, 96. 4 H. 7.  
 6. b. 16 H. 7. 2. b.  
 7 H. 7. 16. b.  
 26 H. 8. 8. b.  
 Br. Bailly 1.  
 12 H. 7. 26. b.

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Pasch.

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## Pasch. 13 Jacobi Regis.

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### LEWIS BOWLES's Case.

1 Rol. Rep. 177.  
Raymond 284.

**L**EWIS BOWLES Esq; brought an Action upon the Case upon Trover against *Hafeldine Bury* the younger, which began in the King's Bench, *Hill. 10. Jacobi Regis. Rot. 1319.* and declared, That he was possessed of 30 Cart-loads of Timber and lost them, and that they came to the Hands of the Defendant, and that he, 20 Feb. anno 9 Jac. Regis at *Norton* in the County of *Hertford* converted them to his own Use; and upon Not Guilty pleaded, the Jury gave a Special Verdict to this Effect. *Thomas Bowles* Esq; Grandfather of the said *Lewis*, was seised of the Manor of *Norton-bury* in the said County in Fee, and 1 Sept. an. 12. by Indenture, betwixt him on the one Part, and *William Hide* and *Leonard Hide* of the other Part, in Consideration of a Marriage to be had betwixt the said *Tho. Bowles*, and *Anne* Daughter of the said *William Hide*, &c. covenanted that after the said Marriage had and solemnized, That the said *Thomas*, his Heirs and Assigns, would stand seised of the said Manor of *Norton-bury* to the Use of the said *Thomas* and *Anne* for the Term of their Lives without Impeachment of Waste, and after their Deceases to the Use of their first Issue Male, and to the Heirs Males of such Issue lawfully begotten, and so over to the 2, 3, and 4 Issue Male, &c. and for want of such Issue, to the Use of the Heirs Males of the Body of the said *Thomas* and *Anne* lawfully begotten, and for want of such Issue, to the use of *Thomas Bowles* Son and Heir apparent of *Tho. Bowles* the Grandfather, and the Heirs Males of his Body begotten, and for want of such Issue, to the Use of the Heirs of the Body of the said *Thomas* and *Anne* lawfully begotten. Which Marriage was solemnized accordingly, and the said *Thomas* the Grandfather, and *Anne* had Issue *John*; and afterwards the

the said *Thomas* the Grandfather died without any Issue on the Body of *Anne*, but the said *John*, after whose Death the said *Anne* entered into the said Manor and was thereof seised, with the said Remainder over as aforesaid, and afterwards the said *John Bowles* died, and afterwards *Thomas* the Son conveyed by Fine his Remainder to the Use of *Lewis Bowles* the Pl. and *Diana* his Wife, and the Heirs Males of his Body; and the said *Anne* so being seised of the said Manor, with the Remainder over as aforesaid, viz. 20 Feb. an. Reg' Jac. Reg' (a) 1 Rol. Rep.

9. (a) a Barn Parcel of the said Manor per vim ventorum & Tempestat' panitus subvers. & ad terram deject. fuit, and that the said 30 Cart-loads of Timber in the Declaration mentioned were Parcel of the said Barn, and that the said Timber was found and fit for Building, wherefore the Def. as Servant of the said *Anne*, and by her Command, took the said Timber and carried it out of the Limits of the said Manor to *Radial* in the same County; and afterwards the said *Anne* 20 Feb. anno 9 Jac. Reg. made her Last Will, and thereof made *Rob. Osborne* and *Leon. Hide* Knts. her Executors, and died, after whose Death the Pl. seized the said Timber, and afterward the Def. by the Command of the said Executors, converted it to his Use, and if upon the whole Matter the Def. was Guilty or not, the Jury prayed the Opinion of the Court.

And in this Case two Questions were moved. 1. If upon the whole Matter the Wife should be Tenant in Tail after Possibility, or that she should have the Privilege of a Tenant in Tail after Possibility, s. to do Waste, &c. 2. Admitting that she should not have the Privilege, &c. If the Clause of without Impeachment of Waste, should give her Property in the Timber to be blown down by the Wind.

And in this Case eight Points were resolved by the whole Court. 1. That (b) till Issue, *Thomas* the Grandfather and *Anne* were seised of an Estate Tail executed *sub modo*, s. till the Birth of the Issue Male, and then by the Operation of Law, the Estates are divided, s. *Thomas* and *Anne* become Tenants for Life, the Remainder to the Issue Male in Tail, the Reversion to the Heirs Males of *Thomas* and *Anne*, the Remainder over as aforesaid; for the Estate for their Lives is not absolutely merg'd, but with this implied Limitation 'till they have Issue Male. Vide *Chudleigh's Case* in the first Part of my Reports, fo. 120. and *Archer's Case*, fo. 66. b.

2. That Tenant in Tail after Possibility, has a greater Preheminence and Privilege in respect of the Quality of his Estate, than Tenant for Life, but he has not a greater Quantity of Estate than Tenant for Life; in respect of the Quality of his Estate, it tastes much of the Quality of an Estate in Tail out of which it is derived, and therefore, 1. (c) She shall not be \*punished for Waste. 2. She (d) shall not be compelled to Attorn. 3. She (e) shall not have Aid.

(a) 1 Rol. Rep. 177.  
 (b) 1 Vent. 306, 307, 345. 1 Rol. Rep. 177, 178. 2 Jones 2. 77. 3 Keble 177, 178. 244, 501. 2 Sand. 353, 387. Co. Lit. 28. a. Raym. 38, 249. 1 Rol. Rep. 178.  
 (c) Doct. & Stud. lib. 2. c. 1. Lit. Sect. 34. 12 H. 4. 3. b. 4. a. 10 H. 6. 1. b. 45 E. 3. 25. a. 18 E. 3. 32. b. 11 H. 4. 14. b. 15. a. 11 H. 6. 1. b. 2 Rol. 826, 828. 1 Rol. Rep. 100, 179, 184. West. Symb. 180. b. 9 Co. 139. a. 6 Co. 41. a. 2 Inst. 306, 302. 4 Co. 63. a. Co. Lit. 27. b. 1 Rol. Rep. 179. F. N. B. 59. b. 39 E. 3. 16. a. b. (d) Co. Lit. 27. b. 1 Rol. Rep. 179. 1 Rol. 296. 39 E. 3. 16. a. b. 11 H. 6. 1. b. 43 E. 3. 1. a. Br. Attorn. 10. Br. quid juris clamat 1, 6, 46 E. 3. 13. a. Fitz. quid juris clamat 149. 29. 38 E. 3. 20a. b. 3 E. 4. 11. a. 12 E. 4. 3. a. 2 H. 5. 1. b. 29 E. 3. 1. b. (e) 31 E. 3. Aid 35. 8 H. 6. 25. a. 10 H. 6. 1. b. Fitz. Aid. 67. 7 E. 3. 7. a. b. Fitz. mon. trans de faits 9. 26 H. 6. Aid 77. Co. Lit. 27. b. 1 Rol. 167. 39 E. 3. 16. a. b. 2 H. 4. 17. b. Br. Aid 37. 11 H. 4. 15. a. 1 Rol. Rep. 184.

(a) 1 Rol. Rep. 179. Co. Lit. 27. b. Aid. 4. On (a) her Alienation no *Consimili casu* lies. 5. (b) 1 Rol. Rep. 179. Co. Lit. 27. b. After (b) her Death no Writ of Intrusion lies. 6. She (c) 1 Rol. Rep. 179. Co. Lit. 27. b. (c) may join the Mife in a Writ of Right in a special Manner, *Temp. E. 1. Wast. 125. 39 E. 3. 16. a. b. 31 E. 3. Aid. 35. 43 E. 3. 1. a. 45 E. 3. 22. 46 E. 3. 13. a. 27. 11 H. 4. 15. a.*

7 H. 4. 10. b. 2 H. 4. 17. b. 42 E. 3. 22. 3 E. 4. 11. a. 21 H. 6. 56. 10 H. 6. 1. b. 13 E. 2. *Entre Congeable* 56. 28 E. 3. 96. b. 26 H. 6. Aid 77. F. N. B. 203. 7. In (d) an Action brought by her she shall not name herself Tenant for Life, 18 E. 3. 27. a. a Woman brought a *Cui in vita, quod clamat tenere ad vitam*, and maintained it in her Count by a Gift in special Tail to her and her Husband, and that her Husband is dead without Issue, and the Writ for Variance of the Title abated. 8. In an Action brought against her, she shall not be named Tenant for Life, *f. Quod tenet ad terminum vite.*

(d) 1 Rol. Rep. 179. Co. Lit. 27. b. Doct. pla. 241. (e) 1 Rol. Rep. 179. 46 E. 3. 27. 2. b. Cr. Ill. 671. Noy 74. *Mic. 39. & 40 El. Rot. 3316. in Communi Banco, (e) inter Veal & alios quer' & Read def. in quid juris clamat*, and the Note of the Fine supposed that the Def. *tenet ad terminum vite*, the Def. demanded Oyer of the Writ, and of the Note of the Fine, and had it, and pleaded that he was seised in Fee, *absque hoc quod* the Day of the Note levied *tenuit pro termino vite*, and the Jury found that he held as Tenant in Tail after Possibility of Issue extinct, and it was adjudged *pro Defendente*, for Tenant in Tail after Possibility shall not be in Judgment of Law included in a Writ or Fine, &c. within the general Allegation of a Tenant for Life. *Vide 19 E. 3. 1. b.*

But as to the Quantity, he has but an Estate for Life, and therefore, if he makes a Feoffment in Fee, (f) it is a Forfeiture of his Estate, 13 E. 2. *Entre Cong. 56. 45 E. 3. 22. 28 E. 3. 96. b. 27 Ass. 60. F. N. B. 159.* (g) So if Fee or Tail general descends or remains to Tenant in Tail after Possibility, &c. the Fee or Estate Tail is executed, 32 E. 3. age 55. 50 E. 3. 4. 9 E. 4. 17. b. And by the Statute of W. 2. (h) he in Reversion shall be received upon his Default, 2 E. 2. *Resceit* 147. 41 E. 3. 12. 20 E. 3. *Resceit* —. 38 Ed. 3. 33. *Vide 28 E. 3. 96. b. 39 E. 3. 16. a. b. (i) And an Exchange betwixt Tenant for Life, and Tenant in Tail, after Possibility is good, for their Estates are equal.*

3. It was resolved, That the Estate of a Tenant in Tail after Possibility ought to be a Remnant and Residue of an Estate Tail, and that by the Act of God, and not by the Limitation of the Party, (k) *ex dispositione legis*, and not *ex provisione hominis*: and therefore if a Man makes a Gift in Tail upon Condition, That if he does such an Act, that he shall have but for Life, he is not Tenant in Tail after Possibility of Issue extinct, for that is *ex provisione hominis*, and not *ex dispositione legis*; but it ought to be the Remnant and Residue of an Estate Tail, and that by the Act of God and the Law, *f. by the Death of one Donee without Issue, Lit. 6. b. Doct. & Stud. l. 2. c. i. f. 61.*

2 H. 4. 17. b. 26 H. 6. Aid. 77. If Tenants in special Tail recover in Assise, and afterwards one dies without Issue, and afterwards he who survives (who is Tenant in Tail after Possibility) is re-disseised, he shall have a re-disseisin, for it is the same Freehold he had before, for it is Parcel of the Estate Tail: And because the Wife in the Case at Bar had the Estate for Life by Limitation of the Party, and the Estate which she had in the Remainder, *s.* of the Tenancy in Tail after Possibility, was not a larger Estate in Quantity, and therefore could not merge the Estate for Life, as has been said before, for this Cause the Wife was not Tenant in Tail after Possibility.

Co. Lit. 154. b.

4. It was resolved, That in this Case the Wife should have the (a) Privilege of a Tenant in Tail after Possibility for the Inheritance which was once in her; For now when *John* the Issue Male is dead, the Privilege which she had in respect of the Inheritance which was in her in Remainder shall not be lost. And there is no Question but a Woman may be Tenant in Tail after Possibility of a Remainder as well as of a Possession; and therefore if a Lease for Life is made, the Remainder to Husband and Wife in special Tail, the Husband dies without Issue, now is the Wife Tenant in Tail after Possibility of this Remainder; and if the Tenant for Life surrenders to her, as he may (for the Life of him in the Remainder is higher than the other Life) now is the Tenant in Tail after Possibility in Possession: and like this Case, (b) if the Father is enfeoffed to him and his Heirs with Warranty, and the Father enfeoffs the Son, &c. and dies; in this Case the Son, altho' he has the Land by Purchase, yet he shall take the Benefit of the Warranty as Heir, for he can't vouch as Assignee, and the Warranty betwixt the Father and him is lost, as it is adjudged in 43 E. 3. 23. b. So here, altho' the Wife can't claim the Estate of Tenant in Tail after Possibility, yet she may claim the Privilege and Benefit of it. And it was observ'd, That Tenant in special Tail at the Common Law had a limited Fee-simple, and when their Estate was changed by the Statute *de Donis conditional'*, yet there was not any Change of their Interest in doing of Waste: So when by the Death of one Donee without Issue the Estate is changed, yet the Power to commit Waste, and to convert it to his own Use, is not altered nor changed for the Inheritance which was once in him, *Vide Hil. 2. Jacobi Rot. 229. inter (c) Brooke* & *Rogers in Communi Banco*, if a Timber Tree becomes *arida*, *sicca*, *non portans fructus nec folia in astate, nec existens mæremium*, yet because it was once an Inheritance, &c. no Tithes shall be paid for it, so that the Quality remains, altho' the State of the Tree is altered.

(a) Co. Lit. 28. 21  
1 Rol. Rep. 178.(b) 2 Rol. 742.  
1 Co. 98. 1 Rol.  
Rep. 180. Co.  
Lit. 384. b.(c) Moor 908.  
2 Inst. 643.  
1 Rol. Rep. 103.  
1 Rol. 640. Cr.  
Jac. 100. Arrea  
2. 48. b. 49. a.  
Doct. and Stud.  
f. 175. b.



(a) Cr. Car. 242;  
274. 2 Rol. 119.

(b) Antea f. 48. a.

(c) Cr. Car. f.  
243. Antea 48. b.  
Cr. Car. 242.  
Moor 19. Pal-  
mer 327. 5 Co.  
76. b. 4 Co. 62,  
63. 1 Rol. Rep.  
181.

4 Co. 62. b. Dr.  
& Stud. l. 2. c. 1.

(d) 1 Rol. Rep.  
122. 2 Inst. 144,  
145. 302.

(e) 2 Rol. 813.  
Co. Lit. 53. b.  
2 Inst. 145.  
4 Co. 62. b.  
14 H. 8. 6. a.  
13 H. 7. 20. b.

5. That if (a) Tenant for Life or for Years fells Timber, or pulls down the Houses, the Lessor shall have the Timber; and because this Point was resolved in this Court upon a solemn Argument in (b) *Liford's Case* last Mich. Term, which *vide* before in this Book, I will make the shorter Report. 1. It is apparent in Reason, That the Lessee had them but as Things annexed to the Soil, and therefore it would be absurd in Reason, that when by his Act and Wrong he severs them from the Land, that he should gain a greater Property in them than he had by the Demise. 2. It (c) is without Question (as it is resolved in the said Case) That the Lessor has the general Ownership and Right of Inheritance in the Houses and Timber-Trees, and the Lessee has but a particular Interest, and therefore be they pull'd down or fell'd by the Lessee or any other, or by Wind or Tempest blown down, or by any other Means disjoined from the Inheritance, the Lessor shall have them in respect of his general Ownership, and because they were his Inheritance; and as that the Resolutions in *Herlakenden's Case* in the 4th Part of my Reports, fol. 63. a. were affirmed for good Law, and *Pager's Case* in the 5th Part of my Reports, fol. 76. b. for altho' he can't punish them in an Action of Waste at the Common Law because it was his own Act, and in his Lease he has not made Provision by Covenant or Condition; yet the Inheritance and general Ownership remains in the Lessor, and the Lessee (as hath been said) has but a special Interest in the Houses and Timber-Trees so long as they are annexed to the Land, and this appears by the Statute of (d) *Marlebridge*, c. 23. *Item firmarii vastum, &c. non facient, nisi specialem inde habuerint concessionem per scriptum conventionis, mentionem faciens quod hoc facere possint*, whereby it appears, That the Lessees for Life or Years, which then were, could not rightfully fell the Trees, or pull down the Houses unless the Lessor had granted by Deed to do it. In which it was also observed, That at the Time of the making of the same Act, the said Clause of *without Impeachment of Waste* was in Use, which proves that it was to such Purpose that the Lessee might commit Waste, and dispose it to his own Use, which he could not do without such Clause. 3. Every Lessee for Life and Years ought by the Law to do Fealty upon his Oath, and it would be against his Oath to waste the Houses and Timber-Trees. And *nota* Reader, upon this Statute of *Marlebridge* lies a Prohibition of Waste against the Lessee for Life, and Lessee for Years, to prohibit them that they shall not do Waste before any Waste was done, as it was (e) against Tenant in Dower, and Tenant by the Courtesie at the Common Law.

*Vide*

*Vide Bract.* 316. the Judgment in Waste at the Common Law. Tenant in Dower, or by the Courtesie have as high an Estate as Lessee for Life, and it appears that it was not lawful for Tenant by the Courtesie or in Dower to do Waste, Ergo no more for Tenant for Life: The only Difference was, That a Prohibition of Waste lay against Tenant in Dower, and by the Courtesie at the Common Law, and not against the Lessees till the said Statute of *Marl.* And to prove what Interest the Lessee for Life has in the Trees at the Common Law, it appears by *Bracton* (who wrote before the Statute of *Gloc'*) *lib. 4. tract. de assisa nova dis. c. 4. f. 217. Si quis vastum fecerit, vel destructionem in tenemento quod tenet ad vitam suam, in eo quod modum excedit, & rationem, cum tantum conceditur ei rationabile estoverium, facit transgressionem, & si talis impediatur, ille tenens assisam non habebit, intentio talis liberabit a disseisina, quia in eo quod tenens abutitur male utendo, & debitum usum & modum debitum excedendo, non potest dicere quod disseisus est, quia tantum rationabilis usus ei conceditur;* which proves directly, That it was a Wrong in the Lessee for Life to do Waste, or Destruction at the Common Law. And it was resolved, if an House falls down (a) *per vim Ventii* in the Time of such Lessee for Life or for Years, or in the Time of the Tenant in Dower, or Tenant by the Courtesie, &c. that such particular Tenants have a special Property in the Timber to rebuild the like House as the other was for his Habitation: As if they fell a Tree for Reparation, they have a special Property to that Purpose in it, and therewith agree (b) 44 E. 3. 5. b. 44 E. 3. 44. b. 29 E. 3. 3. & (b) Cr. El. 784 10 E. 4. 3. a. But the said particular Tenants can't give or sell the Tree so fell'd, for the general Property is in the Lessor; and therefore *Lit. f. 15. (c)* holds, That if I bail Goods to another to manure his Land now he has a special Property in them to that Purpose, and in that Case, if he kills them, a general Action of Trespafs lyes against him. See 11 H. 4. 17. a. & 23. b.

6. The Preheminence and Privilege which the Law gives to Houses which are for Men's Habitation was observed. First an House ought to have the Priority and Precedency in a *Præcipe quod reddat* before Land, Meadow, Pasture, Wood, &c. *F. N. B. 2. &c.* for his House is his Castle, & (d) *domus sua est unicuique tutissimum refugium.* 2. (e) The House of a Man has Privilege to protect him against Arrest by Virtue of Process of Law at the Suit of a Subject, *Vide Semaine's Case, in the 5 Part of my Reports, fo. 91. b.* 3. It has Privilege against the King's Prerogative, for it was resolved by all the Judges *M. (f) 4. Jac.* That those who dig for Salt-peter, shall not dig in the Mansion-House of any Subj.

M 2

without

Cr. El. 908. Moor 668. 18 E. 2. Execution 252. Contra: 4 Leon 41. 13 E. 4. 9. 22. 18 E. 4. 41. 2. Brs Execution 100. Brs Trespafs. 390. 1 Bullar. 146. Ben. 221. (f) 1 Rol. Rep. 182. 22 Co. 13.

(a) 1 Co. 63. d.  
Co. Lit. 53. 2a.  
(b) Cr. El. 784  
1 Co. 47. 2.  
1 Rol. Rep. 187.  
2 Rol. 556. 5 Co.  
13. b. Cr. Car.  
274.  
(c) Sect. 71. Co.  
Lit. 57. a.

(d) 5 Co. 31. b.  
Co. Lit. 4. a.  
1 Rol. Rep. 182.  
3 Inst. 162.  
(e) 5 Co. 92. b.  
4 Inst. 177. Hob.  
62. 263. 264. Cr.  
Jac. 486. 556.  
1 Jones 429. Cr.  
Car. 437. 438.  
March. 3. 4.  
1 Brownl. 50.  
Yelv. 28. 29.

## LEWIS BOWLES's Case. PART XI.

without his Assent, for then he, or his Wife or Children can't be in Safety in the Night, nor his Goods in his House preserv'd from Thieves and other Mis-doers. 4. He who kills a Man *se defendendo* (a) or a Thief who would rob him in the Highway, by the Common Law shall forfeit his Goods, but he who kills one that would rob and spoil him in his House, shall forfeit nothing, 3 E. 3. Corone 330. & 26 Ass. 23. &c. 5. If there be two Joynt Tenants of a Wood, or Arable Land, the one has no Remedy against the other to make Inclosure or Reparations for Safeguard of the Wood, or Corn, but if there be two Joynt Tenants of an House the one shall have a Writ *de reparatione facienda*, against the other, and the Words of the Writ are *ad reparationem* & (b) *sustentationem ejusdem domus tenetur*, F. N. B. 127. a. b. (c) If a Man is in his House, and hears that others will come to his House to beat him, he may call together his Friends, &c. into his House to aid him in Safety of his Person; for as it has been said, A Man's House is his Castle and his Defence, and where he properly ought to remain: but if a Man be (d) threatened if he comes to such a Fair or Market that he shall be beaten, in that Case he can't make such Assembly, but he ought to have Remedy by Surety of the Peace, 21 H. 7. 39. a.

(a) 5 Co. 91. b.  
Coron. 192.  
3 E. 3. Coron.  
205, 330. Br.  
Cor. 100. 1 Rol.  
Rep. 182. 5 Co.  
91. Stamp. Pl.  
Cr. 14. a. 3 Inst.  
56. Exod. 22.  
v. 2. 22 H. 8. c. 5.

(b) Co. Lit. 54. b.  
1 Rol. Rep. 182.  
5 Co. 91. b.  
(c) 21 H. 7. 39. a.  
Br. Riots & c. 1.  
Fitz. Tresp.  
246.

(d) 1 Rol. Rep.  
182. 5 Co. 91. b.

(e) 1 Rol. Rep.  
182. Moor 18.  
327. 2 Inst. 146.  
Hob. 132. lib. 4.  
f. 63. a. Popph.  
193. 194. 195.  
270. Bridgm.  
102. Dyer 47. pl.  
11. b. 2 Co. 23. a.  
72. a. Pl. 135. b.  
Cr. Jac. 216.  
2 Rol. 835.  
2 Inst. 146. 9 Co.  
9. a. 2 Rol. Rep.  
325. Hurl. 77.  
Moor 317.  
(g) Lit. f. 116.  
s. 496. 497. Co.  
Lit. 286. a. b.  
4 Co. 63. a.  
1 Rol. Rep. 184.  
(h) 1 Rol. Rep.  
184. 8 Co. 154. a.

(i) 1 Rol. Rep.  
181. Br. Patent  
45. 109.

(k) Co. Lit.  
220. a. 2 Inst.  
146. 1 Rol. Rep.  
184. Cr. Car.  
274.

(e) 7. The Clause of *without Impeachment of Waste* gives a Power to the Lessee, which will produce an Interest in him if he executes his Power during the Privy of his Estate; and therefore to examine it in Reason. 1. These (f) Words *absque impetitione vasti*, are as much as to say, without any Demand for Waste, for *impetitione* is derived from *in* and *peto*, and *petere* is to demand, and *petitio* is a Demand, and *sine impetitione* is without any Manner of Demand or Impeachment; Then this Word *Demand* is of a large Extent, (g) for if a Man disseises me of my Land, or takes my Goods, if I release to him all Actions, yet I may enter into the Land, or take my Goods, as *Lit.* holds, f. 115. and therewith agree 19 Ass. 3. 19. H. 6. 4. b. 21 H. 7. 23. b. 30 E. 3. 19. for by the Release of the Action, the Right or Interest is not released, but if in such Case I release (h) all Demands, that will bar me, not only of my Action, but also of my Entry and Seizure, and of the Right of my Land, and of the Property of my Goods, as it was resolved in *Chauncy's Case*, 34 H. 8. Br. Release 90. (i) 2 H. 7. 6. b. the King made one Sheriff *sine computo*, thereby he shall have the Revenues which belong to his Office to collect to his own Use. But if the Words had been (k) *absque impetitione vasti per aliquod breve de vasto*, then the Action only would be discharged, and not the Property in the Trees, but that the Lessor after the Fall

Fall of them might seize them: and this Difference appears in 3 E. 3. 44. a. b. in (a) *Walter Idle's Case*, where a Lease was made without being impeached, or impleaded for Waste, upon which it was collected that these Words *without being impleaded*, without these Words *without (b) being impeached for Waste*, were not sufficient to bar the Lessor of his Property, and that if the Lessor had granted that the Lessee might do Waste, he thereby had Power not only to do Waste, but also to convert it to his own Use, and that the Words of the said Act of *Marlebridge*, and the Statute de (c) *prærogativa Regis c. 16.* prove, where it is said, That the King shall have *annum, diem, & vastum, &c.* which is as much as to say, that he shall have the Trees, &c. at his own Disposition.

2. It was said, that the continual and constant Opinion of all Ages was, That those Words gave (d) Power to the Lessee to do Waste to his own Use, and it would be dangerous now to recede from it, and as it is said in 38 E. 3. 1. a. by the Judges (so we say in this Case) we will not change the Law which has been always used; and it is well said in 2 H. 4. 18. b. It is better that there should be a Defect, than that the Law should be changed; (e) and the Opinion of *Wray C. Justice*, and *Manwood* cited in *Herlakenden's Case* was not Judicial but *prima facie* upon an Arbitrament without any Argument, and perhaps upon the Sight of (f) 27 H. 6. Waste 8. and therefore altho' the C. J. argued in this Case, against their Opinions, yet it was with great Reverence to them, saying with *Aristotle* in the like Case, *Amicus Plato, amicus Socrates, sed magis amica veritas*; and *Qui non libere veritatem pronunciat, proditor veritatis est.* And the Truth of this Case appears by *Littleton in his Chapter of Conditions, f. 82. (g)* where he puts this Case, If a Feoffment be made upon such Condition, That the Feoffee shall give the Land to the Feoffor, and to the Wife of the Feoffor, To have and to hold to them and to their Heirs of their two Bodies begotten, the Remainder to the right Heirs of the Feoffor, in that Case if the Husband dies, living the Wife, before any Estate in Tail made to them, then ought the Feoffee by the Law to make an Estate to the Wife as near the Condition and as near the Intent of the Condition as he can make it, *sc.* to Lease the Land to the Wife for Term of her Life without Impeachment of Waste, the Remainder to the Heirs of the Body of her Husband on her begotten, the Remainder to the right Heirs of the Husband; and the Reason why the Lease shall be made in this Case to the Wife without Impeachment of Waste, is (as *Littleton* there says) because the Condition is, That the Estate shall be to the Husband and his Wife in Tail, and if such Estate had been

## LEWIS BOWLES's Case. PART XI.

made in the Life of the Husband, then after the Death of the Husband she had had an Estate in Tail, which Estate is without Impeachment of Waste, and so it is reasonable that a Man should make an Estate as near the Intent of the Condition as he can, which Case directly proves, That Tenant for Life without Impeachment of Waste has as great a Power to do Waste and to convert it at his own Pleasure, as Tenant in Tail had. That these Words without Impeachment of Waste, are sufficient Words to give Tenant for Life such Power, *Vide* (a) 2 H. 4. 5. b. and the L. Cromwell's Case in the 2 Part of my Reports, f. 81. a. b. 82. a. and for this Clause of without (b) Impeachment of Waste, 3 E. 3. 44. 8 E. 3. 34. a. b. 35. a. 24 E. 3. 32. 43. E. 3. 5. a. 5 H. 5. 8. 27 H. 6. Waste. 8. 4 E. 4. 36. a. 20 H. 7. 10. 28 H. 8. Dyer 10. and so the *Quere* in the said Book of 27 H. 6. well resolved: And see the Opinion of *Statham* in abridging the said Book against it. (c) But the said Privilege of without Impeachment of Waste, is annexed to the Privy of Estate, 3 E. 3. 44. by *Shard* and *Stone*: If one who has a particular Estate without Impeachment of Waste, changes his Estate, he loses his Advantage, 5 H. 59. u. If a Man makes a Lease for Years, without Impeachment of Waste, and afterwards he confirms the Land to him for his Life, now he shall be charged for Waste, 28 H. 8. Dyer (d) 10 b. If a Lease is made to one for the Term of another's Life, without Impeachment of Waste, the Remainder to him for his own Life now he is punishable for Waste, for the first Estate is gone and drowned, so of a Confirmation. It was adjudged in *Ewen's* (e) Case, *Mich.* 28 & 29 *Eliz.* That where Tenant in Tail after Possibility of Issue extinct granted over his Estate, that the Grantee was compell'd in a *Quid juris clamat* to attorn, for by the Assignment such Privilege is lost; and that Judgment was affirmed in the *King's Bench*, in a Writ of Error, and therewith agrees (f) 27 H. 6. *Aid* in *Statham.* *Vide* 29 E. 3. 1. b. The Heir at Common Law should have a Prohibition of Waste against Tenant in Dower, but if the Heir granted over his Reversion, his Grantee should not have a Prohibition of Waste, for it appears in the *Register* 72, that such Assignee in an Action of Waste against Tenant in Dower shall recite the Statute of *Glouc'*, ergo, he shall not have a Prohibition of Waste at Common Law, for then he should not recite the Stat. *vide* F. N. B. 55. c. 14 H. 4. 3. 5 H. 5. 17. b.

Lastly it was resolved, That the said Woman by Force of the said Clause of without Impeachment of Waste, had such Power and Privilege, That tho' in the Case at Bar no Waste be done,

(a) Fitz. Con-  
dition 5. Br.  
Condition 33.  
(b) 1 H. 7. 15. a.  
Plow. 141. a.  
21 H. 6. 47. a.  
28 H. 8. Dyer 10.  
pl. 37. 20 H. 7.  
4. a. 21 H. 7.  
24. a. Perk. Sect.  
721. 21 H. 7.  
31. a. 2 Co. 23. b.  
9 Co. 9. a. Co.  
Lit. 220. a.  
3 Bulstr. 136.  
9 H. 6. 35. a.  
Fitz. Waste. 39.  
Plow. 135. b.  
19 H. 6. 63. b.  
10 H. 7. 3. a.  
21 H. 7. 24. a.  
16 H. 7. 4. b.  
2 Rol. Rep. 325.  
Popham 193.  
194. 195.  
(c) 1 Rol. Rep.  
183. Co. Lit.  
28. a. Moor 327.  
8 Co. 76. b. Br.  
Waste. 71. Latch.  
269.  
(d) Dyer 10. pl.  
37. 5 Co. 13. a.  
1 Bulstr. 136.  
8 Co. 76. b.  
19 H. 6. 23. a.  
Poph. 194.  
Latch. 269.  
(e) 1 Rol. Rep.  
179. Co. Lit.  
316. a. 28. a.  
2 Inst. 302.  
(f) Co. Lit. 28. a.  
Dyer 184. pl. 63.  
Moor 321. Poph.  
194. Latch. 269.  
1 Rol. Rep. 183.

done, because the House was blown down *per vim venti* without her Fault, yet she should have the Timber which was Parcel of the House, and also the Timber Trees which are blown down with the Wind, and when they are severed from the Inheritance either by the Act of the Party, or of the Law, and become Chattels, the whole Property of them is in the Tenant for Life, by Force of the said Clause of, without Impeachment of Wast. And for this Cause Judgment was given *per omnes Iudicarios una voce, Quod Querens nihil caperet per billam.*

Moor 321, 327.  
Poph. 193. 1 Roll.  
Rep. 182, 184.  
Co. Lit. 220. 2.

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Trin.

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# Trin. 44. Eliz. Reginae.

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## *The Case of the MONOPOLIES.*

Moor 671. Noy  
173. 3 Inst. 184.  
8 Co. 125. 2.  
3 Inst. 47.  
3 Keble 269.  
Hob. 212.

**E** Edward Darcy Esq; a Groom of the Privy Chamber to Q. El. brought an Action on the Case against *Tbo. Allein* Haberdasher of London, and declared, That Queen *Eliz. 13 Junii, an. 30 Elizabethæ* intending that her Subjects being able Men to exercise Husbandry, should apply themselves thereunto, and that they should not employ themselves in making playing Cards, which had not been any ancient manual Occupation within this Realm, and that by making such a Multitude of Cards, Card playing was become more frequent and especially among Servants and Apprentices and poor Artificers; and to the End her Subjects might apply themselves to more lawful and necessary Trades; by her Letters Patents under the Great Seal of the same Date granted to *Ralph Bowes* Esquire, full Power, Licence and Authority by himself, his Servants, Factors and Deputies to provide and buy in any Parts beyond the Sea, all such playing Cards as he thought good, and to import them into this Realm, and to sell and utter them within the same, and that he, his Servants, Factors and Deputies, should have and enjoy the whole Trade, Traffick and Merchandize of all playing Cards: And by the same Letters Patents further granted

granted, That the said *Ralph Bowes*, his Servants, Factors and Deputies, and none other should have the making of Playing Cards within the Realm, to have and to hold for 12 Years; and by the same Letters Patents, the Queen charged and commanded, That no Person or Persons besides the said *Ralph Bowes*, &c. should bring any Cards within the Realm during those 12 Years; nor should buy, sell or offer to be sold within the said Realm, within the said Term, any Playing Cards, nor should make, or cause to be made any Playing Cards within the said Realm, upon pain of the Queen's highest Displeasure, and of such Fine and Punishment as Offenders in the Case of voluntary Contempt deserve. And afterwards the said Queen, 11 *Aug. An. 40 Eliz.* by her Letters Patents reciting the former Grants made to *Ralph Bowes*, granted the Plaintiff, his Executors and Administrators, and their Deputies, &c. the same Privileges, Authorities, and other the said Premises, for 21 Years after the End of the former Term, rendering to the Queen 100 Marks *per Annum*; and further granted to him a Seal to mark the Cards. And further declared, That after the End of the said Term of 12 Years, *f. 30 Junii An. 42 Eliz.* the Plaintiff caused to be made 400 Grosses of Cards for the necessary Uses of the Subjects, to be sold within this Realm, and had expended in making them 5000 *l.* and that the Defendant knowing of the said Grant and Prohibition in the Plaintiff's Letters Patents, and other the Premises, 15 *Martii, Anno 44 Eliz.* without the Queen's Licence, or the Plaintiff's, &c. at *Westminster* caused to be made 80 Grosses of Playing Cards, and as well those, as 100 other Grosses of Playing Cards, none of which were made within the Realm, or imported within the Realm by the Plaintiff, or his Servants, Factors or Deputies, &c. not marked with his Seal, he had imported within the Realm, and them had sold and uttered to sundry Persons unknown, and shewed some in certain, wherefore the Plaintiff could not utter his Playing Cards, &c. *Contra formam prædicti literarum patentium, & in contemptum dictæ Domine Reginae, (a)* where-<sup>(a)</sup> 1 Roll. 106.  
by the Plaintiff was disabled to pay his Farm, to the Plaintiff's Damages. The <sup>(b)</sup> Defendant, except to one half<sup>(b)</sup> Moor 671.  
Gross, pleaded not Guilty, and as to that pleaded, That the <sup>NOY 173.</sup> City of *London* is an ancient City, and that within the same, from Time, whereof, &c. there has been a Society of Haberdashers, and that within the said City there was a Custom, *Quæ qualibet persona de Societate illa, usus fuit & consuevit emere, vendere,*



## The Case of the Monopolies. PART XI.

(a) Doctrin.  
placit. 56.

*vendere, & libere (a) merchandizare omnem rem & omnes res merchandizabiles infra hoc Regnum Angliae de quocunque, vel quibuscunque personis, &c.* and pleaded, That he was *Civis & liber homo de Civitate & Societate illa*; and sold the said half Gros of Playing Cards, being made within the Realm, &c. as he lawfully might; (b) upon which the Plaintiff demur'd in Law.

(b) Moor 671.  
Noy 174.

And this Case was argued at the Bar by *Dodderidge, Fuller, Fleming* Solicitor, and *Coke* Attorney General, for the Plaintiff, and by *Crook, G. Altham* and *Tanfield* for the Defendant. And in this Case two general Questions were moved and argued at the Bar, arising upon the two distinct Grants in the said Letters Patents, *viz.* 1. If the said Grant to the Plaintiff of the sole making of Cards within the Realm was good or not? 2. If the Licence or Dispensation to have the sole Importation of Foreign Cards granted to the Plaintiff, was available or not in Law? To the Bar, no regard was had, (c) because it was no more than the Common Law would have said, and then no such Particular Custom ought to have been alledged, for *In hiis qua de jure communi omnibus conceduntur, consuetudo alicujus patriae vel loci non est alleganda*, and therewith agrees (d) 8 E. 4. 5. a. &c. And altho' (e) the Bar was held Superfluous, yet that shall not turn the Defendant to any Prejudice, but that he may well take Advantage of the Insufficiency of the Declaration.

(c) Doctrin.  
placit. 56.

(d) Br. Prescrip-  
tion 71.

(e) Doctrin. pla-  
cit. 69. Hob. 14.

Cro. Car. 5.

Cro. Jac. 133.

221, 312. 8 Co.

120. b. 133. b.

Palm. 287. Lit.

Rep. 172, 252.

2 Bulstr. 94.

As to the first Question it was argued on the Plaintiff's Side, That the said Grant of the sole making of Playing Cards within the Realm, was good for three Reasons. 1. Because the said Playing Cards were not any Merchandize, or Thing concerning Trade of any necessary Use, but Things of Vanity, and the Occasion of loss of Time, and Decrease of the Substance of many, the Loss of the Service and Work of Servants, Causes of Want, which is the Mother of Wo and Destruction, and therefore it belongs to the Queen (who is *Parens patriae, & paterfamilias totius Regni*, and as it is said (f) in 20 H. 7. fol. 4. *Capitalis Justiciarius Angliae*) to take away the great Abuse, and to take Order for the moderate and convenient Use of them. 2. In Matters of Recreation and Pleasure, the Queen has a Prerogative given her by the Law to take such Order for such moderate Use of them as seems good to her. 3. The Queen, in regard of the great Abuse of them, and of the Cheat put upon her Subjects by Reason of them, might utterly suppress them, and by

Consequence

(f) 20 H. 7. 7. 2.

Consequence without Injury done to any one, might moderate and tolerate them at her Pleasure. And the Reason of the Law which gives the King these Prerogatives in Matters of Recreation and Pleasure was, because the greatest Part of Mankind are inclinable to exceed in them; and upon these Grounds divers Cases were put, *f.* That no Subject can make a (a) Park, Chase or Warren within his own Land, for his Recreation or Pleasure, without the King's Grant or Licence; and if he does it of his own Head, in a *Quo warranto*, they shall be seized into the King's Hands, as it is held in 3 E. 2. *Action sur le Statute Br.* 48 & 30 E. 3. *Rot. Pat.* The King granted to another all the Wild Swans betwixt London Bridge and Oxford.

As to 2. it was argued, and strongly urged, That the (b) Queen by her Prerogative may dispense with a Penal Law, when the Forfeiture is Popular, or given to the King, and the Forfeiture given by the Statute of 3 E. 4. *cap.* 4. in Case of Importation of Cards is Popular, 2 H. 7. 6. b. 11 H. 7. 11. b. 18 H. 7. 8. b. 2 R. 3. 12. a. *Flow. Com. Greidon's Case.* 502. a. b. 6 Eliz. Dyer 225. 13 El. 393. 18 Eliz. 352. 33 H. 8. Dyer 52. 11 H. 4. 76. 13 E. 3. *Release* 36. 43 *Aff. pl.* 19. 5 E. 3. 29. 2 E. 3. 6. & 7. F.N.B. 211. b.

As to the first, it was argued to the contrary by the Defendant's Counsel, and resolved by Popham Chief Justice, & *per totam Curiam*, that the said (c) Grant to the Pl. of the sole making of Cards within the Realm was utterly void, and that for 2 Reasons: 1. That it is a Monopoly, and against the Common Law. 2. That it is against divers Acts of Parliament. Against the Common Law for 4 Reasons: 1. All (d) Trades, as well Mechanical as others, which prevent Idleness (the Bane of the Commonwealth) and exercise Men and Youth in Labour, for the Maintenance of themselves and their Families, and for the Increase of their Substance, to serve the Queen when Occasion shall require, are profitable for the Commonwealth, and therefore the Grant to the Plaintiff to have the sole making of them is against the Common Law, and the Benefit and Liberty of the Subject; and therewith agrees *Fortescue in laudibus Legum Angliæ cap.* 26. And a Case was adjudged in this Court in an Action of Trespass, (e) *inter Davenant & Hurdis, Trin.* 41 Eliz. Rot. 92. where the Case was, That the Company of Merchant Taylors in London, having Power by Charter to make Ordinances for the better Rule and Government of the Company, so that they are consonant to Law and Reason, made an Ordinance, That every Brother of the same Society, who should put any Cloth to be dressed by any Clothworker, not being a Brother of

(1) Postea 87. b.  
2 Inst. 199.  
3 2 Roll. 83, 81z.  
Moor 675.  
2 Roll. Rep. 4.

(b) 3 E. 4. c. 4.  
Br. Patent 109.  
Br. Prærogative  
37. 141. Chart.  
de Pardon 76.  
Br. License 24.  
Fitz. Grant 33.  
12 Co. 18, 19.  
Jenk. Cent. 292.  
Hob. 75, 146.  
214, 229. 3 Keb.  
145, 233, 236.  
Dyer 52. pl. 13. 2.  
352. pl. 25.  
3 Bulstr. 5. Dav.  
14. b. 75. b.  
1 Syd. 6. 4 Co.  
35. b. Co. Lit.  
120. a. 8 Co.  
29. b. Hardr.  
110, 232, 445.  
449. 2 Rol. Rep.  
115, 117. Cro.  
Car. 198. 3 Inst.  
237. 2 Keb. 426.  
(c) Hardr. 55.  
2 Rol. 214.  
2 Inst. 47. 8 Co.  
125. a.  
(d) Antea 53. b.  
Raymond 292.  
Palm. 396, 397.  
Hob. 211. Cap.  
ter 118. 2 Keb.  
125. 2 Rol. Rep.  
392. Cro. El.  
872.

(e) Moor 576.  
ad 591, 672.  
2 Inst. 47. 3 Inst.  
182. 1 Roll. 364.  
Hob. 212. Raym.  
292. Carter 116.

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of the same Society, should put one half of his Cloths to some Brother of the same Society, who exercised the Art of a Clothworker, upon Pain of forfeiting ten Shillings, &c. and to distress for it, &c. and it was adjudged, That that Ordinance, altho' it had the Countenance of a Charter, was against the Common Law, because it was against the Liberty of the Subject; for every Subject, by the Law, has freedom and liberty to put his Cloth to be dressed by what Clothworker he pleases, and can't be restrained to certain Persons, for that, in Effect would be a Monopoly; and therefore such Ordinance by Colour of a Charter, or any Grant by Charter to such Effect, would be void. 2. The sole Trade of any Mechanical Artifice, or any other Monopoly, is not only a Damage and Prejudice to those who exercise the same Trade, but also to all other Subjects, for the End of all these Monopolies is for the private Gain of the Patentees; and altho' Provisions and Cautions are added to moderate them, yet (a) *res profecto stulla est nequitia modus*, it is meer folly to think that there is any Measure in Mischief or Wickedness: And therefore there are three inseparable Incidents to every Monopoly against the Commonwealth, *s. i.* That (b) the Price of the same Commodity will be raised, for he who has the sole selling of any Commodity, may and will make the Price as he pleases: And this Word (c) *Monopolium, dicitur ἄνθρωπος μόνος ἐπιπωλῆας, quod est, cum unus solus aliquod genus mercaturæ universum emit, pretium ad suum libitum statuens.* And the Poet saith. *Omnia Castor emit, sic fit ut omnia vendat.* And it appears by the Writ of *Ad quod damnum. F. N. B. 222. a.* (d) That every Gift or Grant from the King has this Condition, either expressly or tacitly annexed to it, *Ita quod patria per donationem illam magis solito non oneretur seu gravetur*, and therefore every Grant made in Grievance or Prejudice of the Subjects is void; and 13 H. 4. 14. b. the King's Grant which tends to the Charge and Prejudice of the Subject is void. The 2 (e) Incident to a Monopoly is, That after the Monopoly granted, the Commodity is not so good and merchantable as it was before; for the Patentee having the sole Trade, regards only his private Benefit, and not the Commonwealth. 3. It (f) tends to the Impoverishment of divers Artificers and others, who before, by the labour of their Hands in their Art or Trade had maintain'd themselves and their Families, who now will of necessity be constrained to live in Idleness and Beggary; *Vide Fortescue ubi supra*: And the Common Law, in this Point, agrees with the Equity of the Law of God, as appears in *Deut. Cap. 24. ver. 6. Non accipies loco*  
 (a) *pignoriz*

(a) 2 Inst. 507.

(b) Moor 673.  
Hard. 55. Noy  
179.

(c) 3 Inst. 181.

(d) Palm. 79.  
Cro. ARG. 23. 61.  
2 Rob. 172.

(e) Noy 179.

(f) Moor 673.  
Noy 179.

(a) *pignoris inferiorem & superiorem molam, quia animam suam apposuit tibi*; you shall not take in Pledge the neather and upper Mill-stone, for that is his Life; by which it appears, That every Man's Trade maintains his Life, and therefore he ought not to be deprived or dispossessed of it, no more than of his Life: And it agrees also with the Civil Law; *Apud Justinianum enim legimus, Monopolia non esse intromitenda, quoniam non ad commodum Reipublice sed ad labem detrimentaque pertinent.* Monopolia interdixerunt leges Civiles cap. de Monopoliis lege unica. *Zeno imperator statuit, ut exercentes Monopolia bonis omnibus spoliarentur.* Adjecit Zeno, *Ipsa rescripta imperiali non esse audienda, si cuiquam Monopolia concedant.* 3. The Queen was (b) deceived in her Grant, for the Queen, as by the Preamble appears, intended it to be for the Weal Publick, and it will be employed for the private Gain of the Patentee, and for the Prejudice of the Weal Publick; moreover the Queen meant that the Abuse should be taken away, which shall never be by this Patent, but *potius* the Abuse will be encreased for the private Benefit of the Patentee, and therefore as it is said in (c) 21 E. 3. 47. *in the Earl of Kent's Case*, this Grant is void *jure Regie*. 4. This Grant is *prima impressio*-nis, for no such was ever seen to pass by Letters Patents under the Great Seal before these Days, and therefore it is a dangerous Innovation, as well without any President or Example as without Authority of Law, or Reason. And it was observed, that this Grant to the Plaintiff was for 12 Years, so that his Executors, Administrators, Wife or Children, or others inexpert in the Art and Trade, will have this Monopoly. And it can't be intended, that *Edward Darcy* an Esquire, and a Groom of the Queen's Privy Chamber, has any Skill in this Mechanical Trade of making of Cards; and then it was said, that the Patent made to him was void, for to forbid others to make Cards who have the Art and Skill, and to give him the sole making of them who has no (d) Skill to make them, will make the Patent utterly void. *Vide 9 E. 4. 5. b.* And altho' the Grant extends to his Deputies, and it may be said, he may appoint Deputies who are expert, yet if the Grantee himself is not expert, and the Grant is void as to him, he can't make any Deputy to supply his Place, *quia (e) quod per me non possum, nec per alium.* And as to what has been said, that Playing Cards is a Vanity, it is true, if it is abused, but the making of them is neither a Vanity nor a Pleasure, but Labour and Pains.

And

(a) Moor 674.  
Noy 181.  
3 Inst. 181.

(b) 10 Co. 113. b.

(c) Hob. 155.  
10 Co. 113. b.  
21 E. 3. 47. a. b.  
1 Co. 44. a. An.  
cca 74. a. b.

(d) Hob. 148.  
Br. Office & Of-  
ficer 16, 48. Br.  
Patent 108.

(e) 4 Co. 24. b.  
Hawks Max. 55.

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(a) Moor 675.  
Antea 86. 2.  
2 Inst. 199.  
2 Rol. 33, 812.  
2 Rol. Rep. 4.

And it is true, that none can make a (a) Park, Chase or Warren, without the King's Licence, for that is *quodam modo* to appropriate those which are *fera natura*, & *nullius in bonis* to himself, and to restrain them of their natural Liberty, which he can't do without the King's Licence; but for Hawking, Hunting, &c. which are Matters of Pastime, Pleasure and Recreation, there needs no Licence, but every one may, in his own Land, use them at his Pleasure, without any Restraint to be made, unless by Parliament, as appears by the Statutes of 11 H. 7. c. 17. 23 Eliz. c. 10. 3 Jac. Regis c. 13. And it is evident by the Preamble of the said

(b) 3 E. 4. cap. 4.

Act of (b) 3 E. 4. c. 4. That the Importation of Foreign Cards was prohibited at the grievous Complaint of the poor Artificers Cardmakers, who were not able to live of their Trades, if foreign Cards should be imported, as appears by the Preamble, by which it appears, That the said Act provides Remedy for the Maintenance of the said Trade of making of Cards, forasmuch as it maintain'd divers Families by their Labour and Industry; and the like Act is made in 1 R. 3. cap. 12. And therefore it was resolved, that the Queen could not suppress the making of Cards within the Realm, no more than the making of Dice, Bowls, Balls, Hawks-hoods, Bells, Lewers, Dog-couples, and other the like, which are Works of Labour and Art, altho' they serve for Pleasure, Recreation and Pastime,

(c) Antea 54. 2.

and can't be suppressed but by Parliament, nor a (c) Man restrained from exercising any Trade, but by Parliament, 37 E. 3. cap. 16. 5 Eliz. cap. 4. And the playing at Dice and Cards is not prohibited by the Common Law, as ap-

(d) Dyer 254.  
pl. 2. Hobart  
296. Goldth. 35.  
(e) Cr. Car. 234.  
F. N. B. 95. d.  
1 Jones 249.  
Cro. Eliz. 90.  
Cro. Jac. 497,  
498. 2 Rol. 549.  
(f) Hobart 149.  
Hardres 448.

pears M. 8 & 9 El. (d) Dyer 254. (unless a Man is deceived by false (e) Dice or Cards, for then he who is deceived, shall have an Action upon his Case for the Deceit) and therefore playing at Cards, Dice, &c. is not *malum in se*, for then the (f) Queen could not tolerate nor license it to be done. And where King E. 3. in the 39 Year of his Reign, by his Proclamation commanded the Exercise of Archery and Artillery, and prohibited the Exercise of casting of Stones and Bars, and the Hand and Foot-Balls, Cock-fighting, & *alios ludos vanos*, as appears in *dors. claus. de An. 39 E. 3. nu. 23.* yet no Effect thereof followed, till divers of them were prohibited upon a Penalty, by divers Acts of Parliament, *viz.* 12 R. 2. cap. 6. 11 H. 4. cap. 4. 17 E. 4. cap. 3. 33 H. 8. cap. 9.

Also such Charter of a Monopoly, against the Freedom of Trade and Traffick, is against divers Acts of Parliament, *f. 9 E. 3. c. 1. & 2.* which for the Advancement of the freedom of Trade

Trade and Traffick extends to all Things vendible, notwithstanding any Charter of Franchise granted to the contrary, or Usage, or Custom, or Judgment given upon such Charters, which Charters are adjudged by the same Parliament to be of no Force or Effect, and made to the Derogation of the Prelates, Earls, Barons, and Grandees of the Realm, and to the Oppression of the Commons. And by the Statute of 25 E. 3. *cap.* 2. it is enacted, that the said Act of 9 E. 3. shall be observed, holden, and maintained in all Points. And it is further by the same Act provided, That if any Statute, Charter, Letters Patents, Proclamation, Command, Usage, Allowance, or Judgment be made to the contrary, that it shall be utterly void, *Vide Magna Charta cap.* 18. 27 E. 3. *cap.* 11, &c.

As to 2 Question, It was resolved, that the (a) Dispensation or License to have the sole Importation and Merchandizing of Cards (without any limitation or stint) notwithstanding the said Act of (b) 3 E. 4. is utterly against Law: For it is true, That forasmuch as an Act of Parliament which generally prohibits a Thing upon a Penalty, which is Popular, or only given to the King, may be Inconvenient to divers particular Persons, in respect of Person, Place, Time, &c. for this Reason the Law has given Power to the King, to dispense with particular Persons; *Dispensatio mali prohibiti est de jure Domino Regi concessa, propter impossibilitatem providendam omnibus particularibus*, & (c) *dispensatio est mali prohibiti provida relaxatio, utilitate seu necessitate pensata.* (d) But when the Wisdom of the Parliament has made an Act to restrain *pro bono publico* the Importation of many Foreign Manufactures, to the Intent that the Subjects of the Realm might apply themselves to the making of the said Manufactures, &c. and thereby maintain themselves and their Family with the Labour of their Hands; now for a private Gain to grant the sole Importation of them to one, or diverse (without any Limitation) notwithstanding the said Act, is a Monopoly against the Common Law, and against the End and Scope of the Act itself; for this is not to maintain and encrease the Labours of the poor Card-makers within the Realm, at whose Petition the Act was made, but utterly to take away and destroy their Trade and Labours, and that without any Reason of Necessity, or Inconvenience in respect of Person, Place or Time, and *eo potius*, because it was granted in Reversion for Years, as hath been said, but only the Benefit of a private Man, his Executors and Administrators, for his particular Commodity, and in Prejudice of the Commonwealth. And King E. 3. (e) by his Letters Patents, granted to one *John Peché* the sole Importation of Sweet Wine into London, and

Answer to the 2 Question.

(a) 2 Rol. 179.  
214.

(b) 3 E. 4. c. 4.

(c) Co. Lit. 92.  
Palm. 476.  
3 Keb. 236.  
Godolph.

(d) Abridg. 112.  
(d) 2 Rol. 179.  
214. Hardr. 110.

(e) Moor 672.

*The Case of the Monopolies.* PART XI.

3 Roll. 106.

and at a Parliament held 50 E. 3. this Grant was adjudged void, as appears in *Rot. Parl. An. 50 E. 3. M. 33.* Also admitting that such Grant or Dispensation was good, yet the Plaintiff can't maintain an Action on the Case against those who import any Foreign Cards, but the Remedy which the Act of 3 E. 4. in such Case gives ought to be pursued. And Judgment was given and entred, *quod querens nihil caperet per billam.*

And *Nota* Reader, and well observe the glorious Preamble and Pretence of this odious Monopoly. And it is true *quod Privilegia que revera sunt in prejudicium Reipublica, magis tamen speciosa habent frontispicia, & boni publici pretextum, quam bona & legales concessiones, sed pretextu liciti non debet admitti illicitum.* And our Lord the King that now is, in a Book which he in Zeal to the Law and Justice commanded to be printed Anno 1610. intituled, *A Declaration of his Majesty's Pleasure, &c. pag. 13.* has published, That Monopolies are Things against the Laws of this Realm; and therefore expressly Commands, that no Suitor presume to move him to grant any of them, &c.

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Hill.

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## Hill. 4 Jacobi Regis.

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### The Earl of DEVONSHIRE's Case.

**C**harles Earl of Devonshire Master of the Ordnance <sup>2 Rol. Rep. 275,</sup>  
 general obtained of the King a Privy Seal bearing <sup>296. 2 Rol. 161.</sup>  
 Date ultimo Octobris, anno 2 Regis Jac. in these Words,  
 James by the Grace of God, &c. To our trusty and right well  
 beloved Cousin and Counsellor Charles Earl of Devonshire,  
 Our Lieutenant of our Realm of Ireland, and Master of the  
 Ordnance general, greeting, &c. For as much as we are given  
 to understand, that such Munitions as are utterly decayed and  
 unserviceable, have been heretofore claimed, taken, and enjoyed <sup>Hardr. 353.</sup>  
 by the Master of the Ordnance for the Time being, as Fees  
 and Avails to them, by Reason or in Respect of the said Of- <sup>1 Rol. Rep. 465.</sup>  
 fice, belonging; Our Will and Pleasure therefore is, and we do  
 hereby give unto you full Power and Authority, that you may  
 at your Pleasure receive and take out of the Store within the  
 Tower of London, all such broken and other unserviceable  
 Iron Ordnance, Shot, and other Munitions whatsoever as are  
 particularly expressed, mentioned, or set down in a Book, &c.  
 and the same to retain, employ, and convert to your own Use,  
 &c. By Virtue whereof the said Earl took out of the King's  
 Store, within the Tower, diverse Pieces of Iron Ordnance,  
 Shot, and other Munition mention'd in the said Book, and sold  
 them to divers Perf. for Money, and so converted them to his  
 own



*The E. of DEVONSHIRE's Case.* PART XI.

own Use, and afterwards made his Will, and thereof made an Executor, and died: And now the Question was, If the Executor of the said Earl might be charged to the King, for the said Conversion of the said Ordinance and Munition: And the King referred the Examination and Consideration of this Case to the two Chief Justices and Chief Baron; And the Counsel of the said Executor objected, That the Executor should not be charged in this Case for three Reasons.

1. Because in Truth, broken, cast, and unserviceable Iron Ordnance, Shot, and other Munition belong to the Master of the Ordnance as Fees and Avails belonging to his Office, and offered to produce divers Witnesses to prove, that the Masters of the Ordnance for the Time being for sixty Years past have taken the broken, cast, and unserviceable Iron Ordnance, Shot, and other Munition, as their Fees and Avails due to their Offices.

2. Admitting, that they were not Fees belonging to their Offices, yet the King by his Privy Seal, has given those especially expressed in the said Book to the said Earl, by Force of which he may lawfully take and convert them to his own Use, altho' they were not due to him as Fees and Avails in Respect of his Office.

3. It was objected, That in this Case the Executor can't be charged in Detinue, for none of the said King's Goods came to his Hands, nor in Accompt, for the Testator was never bound to the King to render Accompt, neither as Bailly, nor as Receiver; for (a) no Man shall be charged in Accompt but as Guardian in Soccage, Bailly, or Receiver: And there are not other Original Writs in the Register to charge any in Accompt except in the said three Cases. *Vide Regist.* 135. 19 *H. 6. 5. a. b.* 29 *H. 6. Account 6.* And that is the Reason that an Apprentice by the Name of an Apprentice is not chargeable in Accompt, 8 *E. 3. 46. F. N. B. 119. d. 7 H. 4. 14. b.* And altho' the King has the Prerogative to charge the Executors of an Accomptant, yet he ought to charge the Executor only where the Testator was chargeable in Law, in one of the said three Cases.

Also when any one is charged as Bailly, or Receiver, there ought to be Privy to charge him, but when one claims any Thing to his own Use, there he shall be never charged in Accompt, because he may plead, never his Bailly, never his Receiver to render Accompt, and therewith agree, 2 *Maria Br. Accompt 89. 2 H. 4. 12. a. 39. E. 3. 27.* So in the Case at Bar, the Earl claimed them to his

(a) Co. Lit. 90. b.  
172. a. Owen 36.  
1 Rol. 118, 119.  
2 Inst. 379.

1 Rol. 119. Co.  
Lit. 172. a.  
Owen 36. Fitz.  
Accompt 19.  
Winch. 64. Br.  
Action sur Case  
34. Br. Ac-  
compt 24.

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his own Use, for which no Accompt lies against him, but the personal Wrong, if there was any, dies with his Person.

As to the first, It was answered and resolved, That the Earl could not claim the said Iron Ordnance as Fees or Avails belonging to his Office, for the said Office was erected of late Time; for King *H. 8. An. 35.* of his Reign, by his Letters Patents newly erected the said Office of Master of the Ordnance, and granted it to *Thomas Lord Scimor*, and after his Death in *1 E. 6.* it was granted to Sir *Philip Hobby*, and after his Death, *sc. 1 Maria* it was granted to Sir *Richard Southwell*, and after his Death it was granted to *Ambrose Lord Dudley*, so that the said Earl without Question, can't claim them as ancient Fees by Prescription to a new Office.

As to 2 it was resolved, That the said Privy Seal was made upon a false Suggestion, and that the King was therein deceived: for in the King's Case these Words (*heretofore claimed, taken, and enjoyed by the Masters of the Ordnance for the Time being*) shall be intended to be lawfully claimed, taken, and enjoyed, and not by Wrong, or Usurpation: and also this Word (*belonging*) implies a Right to take them, and therefore the said Privy Seal being founded upon a false Suggestion contained in the said Privy Seal, and so the King deceived by Matter apparent in the same Privy Seal, by Consequence the Privy Seal is utterly void.

And as to 3, Objection, It was answered and resolved by the Court, That altho' the said Earl claimed them to his own Use, yet he shall be bound to the King to accompt, because in the King's Case the Law makes a Privity; for if any one takes the King's Goods, or enters into his Lands wrongfully, yet the King may charge him in Accompt, *33 H. 6. 2. b. 4 H. 7. 6. b. 7 H. 7. 10. a. 15 H. 7. 17. a. 8 Eliz. Dyer 249. Brecreton's Case, & 40 Ass. p. 75.* If Goods be devised to the King, in whose Hands soever they shall come, the Possessor shall be charged in Accompt to the King, and the King is not driven to his Action of Trespas, for then by the Death of the Party, the King would be without Remedy; but the King may by his Prerogative have an Action of Accompt against the Executors of the Party, as appears in *Lit. f. 28.* And the K. is not bound to charge the Def. as Bailly or Receiver, as a common Person ought, but the K. may alledge in his Information generally, that he *ad computum Domino*

2 Rol. 161.  
Co. Lit. 90. b.  
Sect. 125. 2 Rol.  
161.

2 Rol. 161.  
10 Co. 114. b.  
Cr. El. 224. 508.  
2 Rol. 161. Br.  
Accompt 8. 65.  
Br. Bailly 25.  
Dyer 249. pl. 83.  
Moor 476.

1 Rol. Rep. 469.  
1 Co. 46. a.  
2 Rol. 188. Hob.  
155. 10 Co.  
113. b. 21 E. 3.  
47. a. b. Antea  
74. a. b.

Godb. 295. 296.

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*Regi reddend' tempore mortis sua tenebatur*, in so many Sums of Money due to the King, &c. as appears by many Presidents in the Exchequer, and in the King's Bench, and therefore if upon Evidence it appears that he is accountable to the King in any Manner, he shall be charged, as if one by Letters Patents, or by virtue of his Office has Power to assess Fines upon Grants or Admittances made to Copyholders within such of the King's Manors, and he assesses small Fines for the King, and underhand takes great Sums or other Rewards of the Copyholders to his own Use, in Deceit and Prejudice of the King, in that Case he may be charged to the King in Account for the whole, for in Truth the whole was due to the King: And the King who is God's Lieutenant, shall say to such false Steward, *Redde rationem villicationis & vellicationis tuae*: And if he dies, his Executors in the King's Case shall be charged, for as Sir *William Herle* Chief Justice of the Bench in 3 E. 3. 10. saith, Account ought to be brought by Equity and good Faith, *Vide 2 R. 2. Tit. Account 47. & 3 E. 3. 10.* and in 39 *Aff. pl.* 18. it is held, That the King's Officers or Ministers can do nothing to the King's Disadvantage, but all to his Advantage.

2 Rol. 161.

But it was said that it was without President, That the Executors of any such great Officer should be charged after his Death, because he himself could have better discharged himself, than his Executors, who are Strangers to his Accounts and Business, and therefore it would be convenient, that as his Office ceased by his Death, so the Charge in Respect of any Deceit or Wrong concerning his Office whereof he was not detected in his Life should cease also by his Death as a personal Wrong. To which it was said and resolved, That the Reason makes against the Prerogative which the Law gives the King, *sc.* that he shall charge the Executors of his Accountant, and therefore it is not worthy any other Answer. But it is not without many Presidents, one of which was adjudged in the Exchequer, which is enter'd *Mich. 37 & 38 Regina Eliz. Rot. 312.* In an Information preferred by the Attorney-General for the Q. against *Edward Cary* and *William Doddington* Esquires, Executors of Sir *Walter Mildmay* Knight, late Chancellor of the Exchequer, because the said Sir *Walter* was bound to the Queen the Day of his Death to render Account of divers Sums of Money amounting together to 1525*l.* of the Queen's Treasure in the Receipt of the Exchequer at *Westminster*, *inter Festum Natalis Domini Anno 1 Eliz. & idem Festum Anno Regni sui 20.* received to render thereof Account to the Queen, & *quod nemo prædictum compo-*

Sir Walter  
Mildmay's Case  
O. Bendl. 74.  
Godb. 292, 296.  
Swinn. 329.  
2 Rol. Rep. 295.  
Moor 475. Cro.  
Eliz. 145.

*potum adhuc reddidit, nec reddere conatus est*, and that the said Sir Walter constituted the Defendants his Executors, &c. The Defendants pleaded, *quod prædictus Walterus Midmay non recepit præd. 1525 l. aut aliquam inde parcel, ad inde Domina Regina computandum, nec die quo obiit tenebatur eidem Domina Regina in compoto inde, aut alicujus inde parcella reddend' modo & forma, &c. & de hoc pon' se super patriam, &c.* Nota a good Issue by the Rule of the Court, and the Jury found for the Def. saving for 1160 l. Parcel, &c. for which they gave a special Verdict, *sc.* That anno 1 El. Moor 475. Cro. Eliz. 545. The Q. by her Letters Patents constituted the Marquess of Winchester *Theſaurar' Scaccarii sui durante bene placito* (and made him Treasurer of England, by giving to him the Staff) and afterwards in the same first Year, she constituted the said Sir Walter Cancellar' *Scaccar' sui pro term' vite sue*; and afterwards in the same first Year she constituted by her Letters Patents Richard' Sackvil *Militem Subthesaurar' Scaccarii pro termino vite sue*: and that the said Treasurer and Under-Treasurer of the Exchequer 10 Julii 1596, made a Warrant in Writing under their Hands for the Payment to the said Sir Walter Midmay Chancellor of the Exchequer, of the Queen's Treasure in the Receipt being 100 l. yearly for his Dyet, and 40 l. for his Attendance at London in the Vacation Time during the Queen's Pleasure, because the Chancellor of the Court of First Fruits and Tenths (which Court is now annexed to the Exchequer) had Allowance in the same Court for his Trouble and Attendance in the same Office; and by Reason of the annexing of the said Court of First Fruits, and also of the Court of Augmentation, the said Chancellor of the Exchequer was charged with more Business and Attendance, as well in Term as out of Term, more than any Chancellor of the Exchequer before had been: and these were the Reasons which moved the Treasurer and Under Treasurer to make the said Warrant, and were express in it, and directed to four ordinary Tellers of the Receipt of the Exchequer, or to any of them: And afterwards Queen Eliz. 19 Martii anno regni sui secundo, directed her Warrant to the Treasurer, Chamberlains, and Under Treasurer under her Privy Seal, by which, amongst other Articles concerning the Privy Council and Payment of Fees to some Officers, &c. due and accustomed, the said Queen willed and commanded them, That they or any one of them from Time to Time should pay of the Queen's Treasure for Labour, Costs and Expences of every Person who had been, or should be assigned or appointed by our Commission or Commandment to enquire for us, or by us or our Council, or by you, or any of you commanded, or that shall be

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put to labour, ride, write, travel, for or about our Causes, Matters and Affairs, Thing or Things whatsoever, according to their Deserts, in as large Manner and Form as in any Time before had been given or rewarded in our said Exchequer by any Treasurer, Chamberlains, or Under-Treasurer, and more large by their Discretions; (and this was the Clause upon which the Defendant's Counsel rely'd) and the Jury further found, That the said 1160 l. was paid to the said Sir *Walter Mildmay*, after the said Warrant under the said Privy Seal, for his Diet, and Attendance in the Vacation Time at *London*, and that the said Money was paid out of the Queen's Treasure by *Rich. Stonely* one of the Tellers of the said Receipt to the said Sir *Walter*, and by the said Sir *Walter* receiv'd to his own Use, by Force or Colour of the said Warrant of the said Treasurer and Under-Treasurer; and that the said Sir *Walter* exercised his Office aforesaid, and discharged the Duty thereof during his Life; and that the said *Stonely* did account yearly before the Treasurer and Under-Treasurer and other Officers to whom it appertain'd to hear and determine the said Accompt, and had Allowance for the several Payments aforesaid, and full Discharge for them: and if upon the whole Matter the Court shall adjudge, That the said Sir *Walter* had received the said Money to render Accompt to the Queen, then they found for the Queen, and if not, for the Defendants. And in that Case 3 Points were moved.

1. If the Lord Treasurer by himself, or with any other of the King's Officers, could for the said, or for any other reasonable Cause, *ex officio*, allow any Fee or Reward for the necessary Service of the King. 2. Admitting that he had not Power *ex officio*, if he had Power in that Case by Vertue of the said Privy Seal, to make the said Allowance, or not? 3. Forasmuch as Sir *Walter* received them to his own Use; if he should be charged to render Accompt for them upon the said Issue joined, as is aforesaid? As to the first, two Points were resolv'd. 1. That no Officer that the King has, nor all of 'em altogether, can, *ex officio*, issue or dispose of the King's Treasure, although it be for the Honour or Profit of the King himself, but it ought to be by Warrant from the King himself; for it is true, that it is for the Honour and Profit of the King, that good Service done to the King should be rewarded, but it ought to be rewarded by the King himself, or by his Warrant, and by no other; for the King's Treasury (being the Bond of Peace, the Preserver of the Honour and Safety of the Realm, and the Sinews of War) is of so high Estimation in Law in Respect of the Necessity of it, that the imbezilling of Treasure Trove, although it was not in the King's Coffers, was Treason; and

Moor 476. 2 Rol.  
180. Cro. Eliz.  
541.

Co. Lit. 90. b.

and Treasure and other valuable Chattels are so necessary and incident to the Crown, that in the King's Case they shall go with the Crown to the (a) Successor, and not to the Executors, as in the Case of common Persons, as appears 7 H. 4. 43. a. & 44 E. 3. 42. and therefore without the K's Warrant no Treasure shall be issued for any Cause whatsoever by any (b) Officer *ex officio*.

(a) 2 Rol. 211.  
Br. Prerogative  
81, 85. Br.  
Gard. 73.

(b) Moor 476.  
Cro. Eliz. 545.

2 It was resolved, That every Warrant of the Queen herself to Issue her Treasure, is not sufficient; for the Queen's (c) Warrant by Word of Mouth, or (which is more) the Queen's Warrant in Writing under her Privy Signet is not sufficient to issue her Treasure: and that appears by a Judgment in the Exchequer in *Petilian's Case*, Hil. 1 E. 4. Rot. Moor 476.

(c) 2 Rol. 183.  
2 Inst. 556. Lit.  
Rep. 91. Cr. El.  
345.

14 *in dorso*, where such Warrant under the Privy Signet to issue the King's Treasure was disallowed, *Vide* 14 E. 4. 2. a. And yet in some Case the Law takes Notice of the Privy Signet: And therefore, (d) if the King under his Privy Signet doth prohibit any to pass out of the Realm, it is sufficient. F. N. B. 85. a. But the Warrant which is sufficient in Law to issue the King's Treasure, (e) ought to be under the Great Seal or Privy Seal.

(d) 2 Rol. 183.  
Dyer 176. pl.  
30. 123. pl. 61.  
165. pl. 6. 2 Co.  
17. b. Moor 675.  
2 Inst. 54. Jenk  
Centr. 220.

(e) Moor 476.  
2 Inst. 555.  
Lit. Rep. 91.  
2 Rol. 183.  
(f) Moor 475.  
476.

As to 2 Question, it was resolved, That the said Clause did extend to Commissioners and other inferiour Persons which should travel about the Queen's Business, and (f) not to the Chancellor of the Exchequer, for whom (among others) an express Clause was before in the same Privy Seal. Also this Clause is, according to their Deserts, &c. So that by the Privy Seal, the Merit ought to precede the Reward, and in this Case, the Warrant was made before any Merit or Deserving. Also the Privy Seal is, in as large and ample Manner and Form as in any Time before has been given or rewarded, &c. And it is not found that before any Allowance had been made to the Chancellor of the Exchequer of any such Fee or Reward. Also it was touched (but not resolved) That where the Privy Seal gives (g) Authority to four or to one of them, and two make the Warrant, that they have not pursued their Authority. *Vide* 36 H. 8. 62. & 27 H. 8. 6. b.

(g) 1 Rol. 328.  
329. Co. Lit.  
181. b. Dyer  
28 H. 8. 62. pl.  
34. Yelv. 25, 26.  
Noy 47. Hurr.  
127. 1 Rol. Rep.  
299. Carter 85.  
Cro. El. 213.  
914. 5 Co. 91. 2.  
Palm. 23, 54.  
Pop. 202. 5 Co.  
94. b. Cro. Jac.  
553. 3 Bullstr.  
210. 2 Rol. Rep.  
101. Perk. Secd.  
188.  
2 Rol. 161.  
Cro. Eliz. 545.  
Mo. 476. 1 Leon.  
32, 114. 2 Leon.  
34.

As to the third Point, it was resolved, That altho' the said Sir Walter received the King's Treasure to his own Use, yet forasmuch as he received it without a lawful Warrant, he knowing that it was the King's Treasure, the Law makes a Privity in the King's Case, and therefore he may charge him as an Accountant. And so it was adjudged in the Exchequer, *Pasc.* 31. *El. Rot.* 150 *Jurden's Case*.

## The E. of DEVONSHIRE's Case. PART XI.

And in the King's Case it is not needful that the Money or Goods come to the Hands of the Testator, but if he be a Means or Instrument by which the King is put to Loss or Damage, he shall be charged for so much as the King is damaged, and he shall be compelled at the King's Suit *reddere rationem* thereof, which is in the Nature of an Account. And therefore there is a notable Precedent in the Exchequer, *Mitch. 30 E. 3. Rot. 6.* where the Case was, *Quod Willielm' (a) Porter being Magister moneta, &c. covenanted with the K. by Indenture inrolled, That all the Bullion which should be delivered ad Cambium Regis pro moneta facienda, that Money should be delivered for it within 8 Days, which Covenant the said William Porter broke, for he did not deliver to divers Subjects their Money due to them for the Bullion which they brought ad Cambium, according to his Covenant. Upon which, (upon shewing the same in the Exchequer) the King paid to them all the Money due for the Bullion; and because (b) Johannes Walweyn & H. Picard, duxerunt & presentaverunt dictum Will' Porter in Officium illud tanquam sufficientem; (and that they offered to be Sureties for him, but were not accepted of, which Matter the said John Walweyn and Henry Picard confessed) ideo, consideratum est quod predicti Johannes Walweyn & Henr' Picard onerentur vers' s Dominum Regem, &c. and were charged to satisfy the King all the Money which the King had paid for the said William Porter. And (c) altho' none of the King's Treasure came to their Hands; nor had they any private Benefit by any Matter that appeared in the said Case, yet because they were Means and Causes of the King's Loss and Damage, they were by Judgment charged to the King: and forasmuch as they were chargeable by the Law, in that Case if they had died before Judgment against them, without Question their Executors, &c. should be charged; for where the Testator is by Law chargeable to satisfy the King for Loss or Damage done to him, his Death shall not dispense with it, but his Executors, &c. shall be charged to the King. And it was resolved, That in the said Case, the Queen (d) either might charge the Executors of Sir Walter, or those who made such unlawful Warrant at her Election. And a Judgment was cited in the Argument of this Case *de Termino Trin. anno 24 E. 3. Rot. 4.* in the Exchequer. One (e) Walter de Charion the King's Customer had purchased certain Lands with the King's Money, and by Covin had caused the Vendor to enfeof his Friends in Fee to defraud the King, and nevertheless took the Issues and Profits of the Land to his own Use, and those Lands by Inquisition were returned with*

(a) 2 Rol. 161.  
Godb. 292, 296.  
2 Rol. Rep. 296,  
300, 301.

(b) 2 Rol. 161.

(c) 2 Rol. 161.  
3 Keb. 592.

(d) 2 Rol. 161.  
Moor 476.

(e) 12 Co. 7.  
Lane 48, 108.  
Godb. 293, 299.  
1 Vent. 132.  
2 Co. 12, b.  
2 Rol. Rep. 296,  
297, 303, 304.  
2 Inst. 19. Dyer  
160. pl. 41. 225.  
pl. 32, 33. 295.  
p. 10. 2 Rol. 258.

PART XI. *The E. of DEVONSHIRE's Case.*

with the Values into the Exchequer, and there by Judgm. were seized into the King's Hands, *quousque*, &c. and yet the Estate of the Land was never in him. But he who intends to deceive the King of that which belongs to him, will in the End deceive himself. *Vide* Reader, where and how the King shall levy the Sum of which any one is chargeable to him by the Law, not only against the Party himself, his Lands and Goods in his own Hands, but in the Hands of his Heirs, Assigns, Executors or Administrators; and if he has no Executors or Administrators, then in the Hands of the Possessors of the Goods of the deceased, to render an Account to the King, &c. And for that *vide* a notable Record in *Scaccario de Term. Mich. anno 24 E. 3. Rot. 11. ex parte Rememoratoris Regis, Thomas (a) Favel's Case*, which was an Exchequer Chamber Case, by all the Justices, and Barons, and vouched by the Lord Dyer, 4 & 5 *Phil. & Mar.* 160. *Pasc. 2. Eliz. Rot. 111. (b) Sir William Cavendish's Case*, and Reported by the Lord Dyer, 5 *Eliz. 225. Plow. Com. in the Case of Mines, 321. a. & b. Vide 50. Ass. p. 5.*

(a) Godb. 292.  
2 Rol. Rep. 300.  
(b) 3 Co. 12. b.  
Plowd. 321. a.  
Godb. 292. 297.  
2 Rol. Rep. 300.  
302. Hard. 25.  
26. 8 Co. 171. 2.

And afterwards the Executors of the said Earl of Devonshire satisfied the King for all the said Iron Ordnance, Shot or Munition, which he without Warrant had converted to his Use.

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Trin.

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# Trin. 13 Jacobi Regis.

## *In the King's-Bench.*

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### JAMES BAGG's Case.

1 Rol. Rep. 173;  
224.

6 JACOBUS Dei gratia Angliæ, Scotiæ, Franciæ, & Hiber-  
 niæ Rex, Fidei defensor, &c. Majori & Communita-  
 ti Burgi de Plymouth in Com' Devon' salut': Cum Ja-  
 cobus Bagg unus duodecim Capit' Burgen' sive Magistrat'  
 burgi præd', secundum consuetud' in burgo prædicto hæ-  
 tenus usitat', debite electus & præfectus fuerit, Cumque i-  
 dem Jacobus in Officio unius duodecim Capital' burgen'  
 sive magistrat' burgi præd' diu se bene gesserit & guber-  
 naverit, Vos tamen Major & Communitas burgi prædicti  
 præmissi parvi pendent', prædictum Jacobum indebite &  
 absque causa rationabili ab officio unius duodecim Capital'  
 burgenf. & magistrat' burgi præd' minus juste amovistis,  
 in nostri contempt', & ipsius Jacobi dampn' non modicum  
 & gravamen, & status sui læsionem, sicut ex querela  
 sua accepimus: Nos igitur præfato Jacobo debit' & festi-  
 nam Justitiam in hac parte fieri volentes, ut est justum,  
 Vobis & cuilibet vestrum mandamus, sicut alias vobis  
 mandaverimus, firmiter injungent', quod immediate post  
 receptionem hujus brevis prædictum Jacobum in præ-  
 dictum officium unius duodecim Capital' Burgen' sive ma-  
 gistrat' burgi prædicti restituat' cum omnibus libertatibus,  
 privilegiis, & commoditatibus ad officium præd' spectan-  
 & pertinen', vel causam nobis inde significar' ne in  
 vestr' defectu querela ad nos inde perveniat iterat':  
 Et

' Et qualiter hoc breve nostrum fuerit executum, nobis a die  
 ' sanctæ Trinitatis in tres septimanas, ubicunque tunc fue-  
 ' rimus in Angl', constare fac' sub pœna quadragin' libra-  
 ' rum, hoc breve nostrum nobis tunc remitten', T. E. Coke  
 ' apud Westm. duodecimo die Junii Anno Regni nostri  
 ' Angliæ, Franciæ, & Hiberniæ, tertio decimo, & Scotiæ,  
 ' quadragesimo octavo, per Tr. de Anno 13 Jacobi Regis  
 ' Rot. 23. Executio istius brevis patet in quadam schedula  
 ' huic brevi annexa, Joh. Clement Major. Responso Majo-  
 ' ris & Communitatis burgi de Plymouth ad breve huic  
 ' schedul' annexat'. Secundum exigentiam brevis prædicti,  
 ' Domino Regi humilime Certificamus, quod Domina E-  
 ' lizabetha nuper Regina Angliæ per literas suas patentes,  
 ' magno sigillo suo Angl' sigillat', geren' dar' apud Westm.  
 ' vicesimo octavo die Februarii anno regni sui quadragesimo  
 ' mo tertio, pro se, hæredibus & successoribus suis concessit Doctr. plac. 105.  
 ' Majori & Communitat' burgi de Plymouth præd' & suc-  
 ' cess. suis inter alia, quod Major & Recordator burgi præ-  
 ' dicti pro tempore existen' duran' tempore quo ipsi in of-  
 ' ficiis suis fore contigerint, Et ulterius prædecess. præf.  
 ' Majoris ad tunc superstes & pro tempore existen' & suc-  
 ' cess. sui forent Justiciarii ejusd' nuper Regiæ & hæredum  
 ' & success. suorum ad pacem in eodem burgo & infra limi-  
 ' tes præcinct' & libertates ejusdem conservand' & custodi-  
 ' end' & conservari & custodiri faciend' absque alio man-  
 ' dat', commissione, sive warranto proinde habend' sive ob-  
 ' tinend': Et ulterius dicto Domino Regi Certificamus, \* He ought to  
 ' quod infra burgum prædictum talis haberetur & de tempore have first pre-  
 ' cujus contrarii memoria hominum non existit, habebatur scribed that  
 ' usus & consuetudo, quod Major & † duodecim Capitales there had been  
 ' burgens. burgi illius extiterunt & fuerunt de privato consi- an Incorpora-  
 ' lio burgi præd' & viginti quatuor de aliis discretioribus tion of a Major,  
 ' burgensibus burgi præd' pro tempore existen' ad hoc electi &c. from time  
 ' & jurati extiterunt & fuerunt simul cum prædict' Majore whereof, &c.  
 ' & duodecim Capitalibus burgensibus de communi consi- Vide 22 H. 6.  
 ' lio burgi præd', pro meliori regimine & gubernatione e- prescription 47.  
 ' jusdem burgi, \* Et quod quilibet talis burgensis qui in so- & E. 6. Dyer 71.  
 ' cietatem prædict' vigint' quatuor burgensium de communi &c.  
 ' consilio prædict' electus fuerit, antequam ad eandem so- † Twelve chief  
 ' cietatem admissus fuerit, † Sacramentum præstaret corpo- Burgesses, de  
 ' rale coram Majore burgi illius pro tempore existen', quod privato consilio  
 ' ipse bene & honeste se gereret tam erga Majorem burgi Burgi, it would  
 ' præd' pro tempore existen', quam erga præf. duodecim be more aptly  
 ' Capitales Burgeneses Burgi illius pro tempore existen', said, de privato  
 ' & eis de Tempore in Tempus Reverentiam præstaret, consilio Majoris  
 ' & quod manuteneret & sustentaret Libertates & com- & Burgensium.  
 ' munem Utilitatem Burgi prædict' optimo Consilio & Doctr. pl. 292.  
 ' Advisamento suo : Et ulterius certificamus quod quilibet Palm. 452.  
 ' præd' \* They do not  
 ' præd' prescribe nor al-  
 ' præd' ledge any Char-  
 ' præd' ter that they  
 ' præd' may disfranchise  
 ' præd' any of the Cor-  
 ' præd' poration.  
 ' præd' † The Oath of a  
 ' præd' chief Burgess.

JAMES BAGG'S Case. PART XI.

\* They don't  
prescribe in this  
and yet it sa-  
gainst common  
Right. 1 die

Maii 32 El.  
James Bagg  
chose one of the  
34

' præd' duodecim Capital' burgenfium de tempore in tempus  
 ' electus & præfect' fuerit per Major' burgi præd' & residuos  
 ' præd' duodecim Capital' burgenfium vel per majorem  
 ' partem eorundem pro tempor' exift' tantum fine confensu  
 ' vel affensu prædictorum viginti \* quatuor aliorum burgenf.  
 ' qui funt ut præfertur de communi confilio burgi præd' ad  
 ' hoc requifit': Et ulterius certificamus, quod præd' Jaco-  
 ' bus Bagg primo die Maii anno Regni Dominae Eliza-  
 ' bethæ nuper Reginae Angliæ tricesimo fecundo, apud Ply-  
 ' mouth præd' rite elect' & præfect' fuit unus prædictorum  
 ' viginti quatuor burgenfium de communi confilio burgi  
 ' prædicti tunc exiftens, & eodem primo die Maii an. trice-  
 ' fimio fecundo fupradicto apud Plymouth prædict' Sacra-  
 ' mentum præftitit corporale coram tunc Major' burgi præd'  
 ' juxta antiquam confuetudinem præd' quod ipfe idem Jaco-  
 ' bus bene & honefte fe gereret tam erga Majorem burgi  
 ' præd' pro tempore exiftens quam erga cæteros duodecim  
 ' Capitales burgenf. burgi illius pro tempore exiftens, & eis  
 ' de tempore in tempus reverentiam præftaret & libertates  
 ' & communem utilitatem burgi prædict' optimo confilio  
 ' & advifamento fuo manuteneret & fufentaret: Et ulte-  
 ' rius Domino Regi Certificamus, quod præd' burgus de  
 ' Plymouth tam prope littus & Colteras maris fcituat' exiftit,  
 ' quod ratione inde, & ratione quotidiani concursus  
 ' navium & battellorum ibidem applicantium tam a parti-  
 ' bus tranfmarinis quam alibi, multi homines malevoli  
 ' tam alienigeni quam indigeni malæ & perversæ conver-  
 ' fationis, boni regiminis contemptores, & pacis perturba-  
 ' tores, in navibus & battellis prædictis ibidem confluen' in  
 ' burgo prædicto & infra limites & præcinct' ejufdem com-  
 ' morantes & residentes indies inveniuntur, qui ad boni  
 ' regiminis & gubernationis obedienc' haud facile ibidem  
 ' reduci queant, nifi autoritas Majoris illius burgi pro  
 ' tempore exiftens & aliorum Capital' burgenfium præd' de-  
 ' bita reverentia aliorum comburgenfium & inhabitantium  
 ' burgi illius muniatur, & personæ eorundem Capital' bur-  
 ' genf. & Majoris a contemptu apud vulgus præferventur: Et  
 ' ulterius dicto domino Regi certificamus, quod prædictus  
 ' Jacobus Bagg, præmiſſorum non ignarus, Sacramentum  
 ' fuum præd' parvi pend', & autoritatem tam Majoris bur-  
 ' gi præd' pro tempore exiftens & ultimi prædeceſſoris fui  
 ' præd' quam aliorum Capital' burgenf. burgi præd' vile  
 ' pendens, ipſamque autoritatem in contemptum inducere  
 ' laborans & intendens, primo die Maii An. Regni dicti  
 ' domini Regis nunc ſexto, eodem Jacobo ad tunc  
 ' exiftens de Communi confilio burgi prædict', & uno Ca-  
 ' pitalium Burgenfium Burgi illius in præſentia cujuſdam  
 ' Roberti Trelawny tunc Majoris Burgi præd' exiftens  
 &

& plurimorum aliorum inhabitantium burgi præd', apud  
 Plymouth prædict' infra burgum prædictum contemptuose  
 & scurriliter tam gestura quam verbis erga præfat' Major'  
 se gessit, ac adtunc & ibidem præfat' Robert' Trelawny  
 contemptuose & scurriliter & sine aliqua causa rationabili  
 hæc Anglicana verba sequentia palam & publice dixit &  
 propalavit; viz. (a) *You* (præfatum Robert' Trelawny <sup>(a) These</sup>  
 innuendo) *are some Hünce, are you not?* Et ulterius <sup>Words are to be</sup>  
 dicto Domino Regi Certificamus, quod postea, scilicet primo <sup>reprehended,</sup>  
 die Februarii anno Regni dicti Domini Regis nunc <sup>but are no cause</sup>  
 septimo, Prædictus Jacobus Bagg malevolam suam dispo- <sup>to disfranchise</sup>  
 sitionem & intentionem antedictam continuando, apud <sup>him.</sup>  
 Plymouth præd' in præsentia & auditu dict' Ro. Trelawny  
 tunc existen' Justic' ad Pacem dicti Domini Regis infra  
 burgum prædict' conferwand' ratione Majoratus sui burgi  
 prædicti anno tunc prox' præceden' virtute literarum pa-  
 tentium præd' ac in præsentia & auditu quam plurimo-  
 rum alior' inhabitantium burgi præd' palam, publice, &  
 alta voce sine aliqua causa rationabili hæc Anglicana  
 verba sequentia de præf. Rob. Trelawny contemptuose,  
 falso & scandalose dixit & propalavit; viz. (b) *You* <sup>(b) These Words</sup>  
 (præf. Rob. Trelawny innuendo) *are a cozning knave* <sup>are scornful</sup>  
 ubi revera prædictus Rob' Trelawny tota vita sua honeste <sup>and worthy of</sup>  
 & ab omni suspitione alicujus falsitatis, fraudis, vel doli <sup>Punishment, sc.</sup>  
 penitus insuspectus vixit, & in officiis tam Majoratus quam <sup>to bind him to</sup>  
 Capitalis burgenf. burgi illius laudabiliter se gesserit & gu- <sup>his good Beha-</sup>  
 bernaverit: Et ulterius dicto Domino Regi Certifica- <sup>viour, if they</sup>  
 mus, quod vicesimo die Novemb' anno Regni dicti Do- <sup>were published</sup>  
 mini Regis nunc septimo, prædictus Jacobus Bagg, conti- <sup>when the Mayor</sup>  
 nuando malevolam dispositionem & intentionem suam <sup>was sitting in</sup>  
 prædictam, apud Plymouth prædict' seditiose & malitiose <sup>Execution of his</sup>  
 incitabat & persuadebat quendam Thom. Sherwill adtunc <sup>Office, but are</sup>  
 unum Capital' burgenf. burgi prædicti existen', quod ipse <sup>no Cause to dis-</sup>  
 idem Thomas seips. cum præfat. Jacobo Bagg in conspi- <sup>franchise the</sup>  
 rationem conjungeret ad amovend' & deponend' quen- <sup>delinquent.</sup>  
 dam Johannem Battersby tunc Majorem burgi prædicti <sup>Palm. 127.</sup>  
 existen', ab Officio Majoratus sui præd' sine aliqua causa  
 rationabili aut legali, Et adtunc & ibidem malitiose &  
 contemptuose dixit præfato Tho. Sherwill de præfat. Joh'  
 Battersby hæc falsa, opprobriosa, & scandalosa Angli-  
 cana verba sequentia, viz. (c) *Watter Major* (præfat'  
 Joh. Battersby innuendo) *carrieth himself foolishly in his*  
*place; and if you will joyne with me, we will turn*  
*him out of his Majoralty, and chuse a wiser Man*  
*in his Place,* ubi revera præfatus Joh. Battersby du-  
 rant' tecto tempore Majoratus sui prædict' seipsum in ex-  
 cendo

These  
 Words are to be  
 reprehended,  
 but are no cause  
 to disfranchise  
 him.

These Words  
 are scornful  
 and worthy of  
 Punishment, sc.  
 to bind him to  
 his good Beha-  
 viour, if they  
 were published  
 when the Mayor  
 was sitting in  
 Execution of his  
 Office, but are  
 no Cause to dis-  
 franchise the  
 delinquent.

These  
 Words are no  
 Cause to disfran-  
 chize him, i.  
 Because no-  
 thing was done,  
 and it might be  
 that there was  
 just Cause to  
 remove him;  
 and the Cause  
 certified ought  
 to be such that  
 it may appear  
 to the Court,  
 that it is a just  
 Cause to disfran-  
 chize him; for  
 the Party grie-  
 ved can't have  
 an Answer to it.

ercendo officio suo prædicto bene & discrete summaque  
 cum integritate quam gravitate se gesserit: Et ulterius  
 dicto Domino Regi Certificamus, quod postea, scilicet  
 primo die Februarii Anno Regni Dicti Domini Regis  
 nunc octavo, præd' Jacobus Bagg malevolam suam dispo-  
 sitionem & intentionem antedict' continuando, apud Ply-  
 mouth præd' in Guylthalda burgi præd' in præsentia cu-  
 jusdam Tho. Fownes adtunc Majoris burgi præd' existen'  
 ac in præsentia & auditu diverforum tam Capitalium bur-  
 gensium, quam aliorum inhabitantium burgi præd' con-  
 temptuose, contumeliose, & sine aliqua causâ rationabili  
 dixit præfato Tho. Fowns hæc falsa & opprobriosa Ang-  
 licana verba sequentia, viz. (a) *Thou* (præfat' Tho.  
 Fowns tunc Majorem innuendo) *art an insolent fellow,*  
 ubi revera prædictus Tho. toto vitæ suæ cursu seipsum  
 erga omnes homines honeste, civiliter, & laudabiliter gessit  
 & gubernavit: Et ulterius dicto Domino Regi Certi-  
 ficamus, quod postea scilicet primo die Augusti anno regni  
 dicti Domini Regis nunc nono, apud Plymouth prædict'  
 in præsentia & auditu præfat' Tho. Fowns & quam plu-  
 rimor' aliorum burgensium & inhabitantium burgi præ-  
 dicti in Guylthalda burgi prædicti congregat' existen' præ-  
 dictus Jacobus Bagg, continuand' malevolam dispositio-  
 nem & intentionem suam antedictam, diversa contemptuo-  
 sa verba de præfato Tho. Fowns tunc Majore burgi præ-  
 dicti existen' dixit & alta voce propalavit, super quo præ-  
 fat' Tho. Fowns adtunc & ibidem mitissimis verbis ad-  
 monens præf. Jacobum Bagg, quod ipse desisteret a verbis  
 contemptuosis prædictis propalandis, præfatus Jacobus  
 Bagg superinde adtunc & ibidem scilicet decimo die Au-  
 gusti anno nono supradicto apud Plymouth prædict' ac in  
 præsentia & auditu prædict' Tho. Fowns tunc Majoris  
 burgi prædicti, & quam plurimorum aliorum burgensium  
 & inhabitantium burgi prædicti, & in contemptum & op-  
 probrium ipsius Tho. Fowns tunc Majoris, convertens  
 posteriorem partem corporis sui more inhumano, & inci-  
 vili, versus præfat. Tho. Fowns scurriliter, contemptuose,  
 inciviliter, & alta voce dixit præf. Tho. Fowns hæc An-  
 glicana verba sequentia, viz. (b) *come and kiss.* Et  
 ulterius dicto Domino Regi Certificamus, quod postea,  
 scil. vicesimo die Augusti anno Regni dicti Domini Re-  
 gis nunc nono apud Plymouth præd' præfatus Jacobus  
 Bagg insolentissimis verbis præfat' Thomas Fowns tunc  
 Major' Burgi præd' existen' absque aliqua rationabili  
 causa maliciose minatus fuit & adtunc & ibidem  
 præf. Thomas Fowns minaciter & maliciose hæc An-  
 glicana

(a) Ut supra.

(b) This is contra bonos mores and worthy Punishment as aforesaid, but no cause of Disfranchisement.

' glicana verba sequentia dixit, viz. (a) I will make thy<sup>(a)</sup> ut supra.  
 ' Beck crack: Et ulterius dicto Dom' Regi Certificamus,  
 ' quod postea scil. (b) tertio die Maii anno regni dicti Dom<sup>(b)</sup> This is re-  
 ' Regis nunc duodecimo quædam ordinatio & amicabilis<sup>Doctr. pl. 126.</sup>  
 ' admonitionis institutum fact' fuit per Johannem Scobbe<sup>3 Maii, & 9 Maii</sup>  
 ' tunc Majorem burgi prædicti & majorem partem Capital'  
 ' burgenf. burgi illius in hæc verba, viz. Nono die Maii  
 ' Anno Domini 1614. (c) The Day and Year above<sup>(c) Here it ap-  
 ' witten it was agreed by John Scobbe Mayor and  
 ' such other of the Masters hereunder witten, being as-<sup>pears that he  
 ' ssembled in the Council-Chamber at Plymouth, That</sup> should be re-  
 ' if Walker James Bagg the elder, do not before the<sup>moved by the  
 ' next Sessions to be holden within the Borough of Ply-<sup>Mayor and 9 of  
 ' mouth, reconcile himself to the said Mayor and his</sup> the Masters; and  
 ' Wretchen for such Wrongs as he hath committed a<sup>in the End of  
 ' gainst them, and withal faithfully promise to demean</sup> the Return, it is  
 ' himself more orderly and temperately for the Time to<sup>alleged, that he  
 ' come, that then he shall be clean removed from the</sup> was removed by  
 ' Bench and a new Master chosen in his Room: Quæ<sup>the Mayor and  
 ' quidem ordinatio sive institutum factum & subscriptum</sup> Commonalty,  
 ' fuit per dictum Majorem & novem aliorum Capital' bur-<sup>which is repug-  
 ' genf. burgi prædict': Et ulterius dicto Domino Regi Cer-<sup>nant. Doctr. pl.  
 ' tificamus, quod prædictus Jacobus Bagg ante prædictam</sup> 126.  
 ' proximam Sessionem in ordinatione prædicta mentionat'  
 ' non fecit aliquam talem reconciliationem sive promissio-  
 ' nem conformationis qual' in ordinatione illa specificat',  
 ' licet plena notitia ordinationis prædictæ immediate post  
 ' confectioem inde, & ante prædictam proximam sessio-  
 ' nem ei dat' fuit, viz. apud Plymouth prædict': Et ulte-  
 ' rius dicto Domino Regi Certificamus, quod postea scilicet  
 ' vicesimo tertio die Februarii Anno Regni dicti Domini  
 ' Regis nunc duodecimo prædictus Jacobus Bagg, continu-  
 ' ando malevolam dispositionem & intentionem suam præ-  
 ' dictam apud Plymouth prædict' in Guylhalda burgi præ-  
 ' dicti in præsentia & auditu Joh. Scobbe unius Capital'  
 ' burgensium burgi prædicti & tunc existen' Justiciar' dicti  
 ' Domini Regis ad Pacem infra burgum prædictum conser-  
 ' vand', virtute Literarum Patentium Prædictarum ratione  
 ' Majoratus sui burgi prædicti Anno tunc proxim' præce-  
 ' dent', ac in præsentia & auditu tunc Majoris burgi præ-  
 ' dicti & diversorum aliorum Burgensium & inhabi-  
 ' tantium burgi illius, contumeliose hæc Anglicana ver-  
 ' ba sequentia de præfat' Joh. Scobbe palam & publice,  
 ' false & scandalose dixit & propalavit, viz. (d) Thou<sup>(d) Ut supra:</sup>  
 ' (prædictum Johannem Scobbe innuendo) are a knave,  
 ' ubi revera prædictus Joh. Scobbe tota vita sua honeste  
 ' &</sup></sup></sup>

JAMES BAGG's *Case.* PART XI.

& laudabiliter se gesserit & gubernaverit: Et ulterius dicto  
 Dom' Regi Certificamus, quod postea scilicet decimo sept'  
 die Decem' jam ultimo præterit' tunc Majore dicti burgi &  
 diversis Capital' burgenfibus burgi præd' apud Plymouth  
 præd' in domo Elemozinar' burgi prædicti ibidem con-  
 gregat' existen' ad exigend' & recipiend' compositum gar-  
 dianorum pauperum burgi prædicti sicut temporibus  
 ante-actis de tempore cujus contrarii memoria homin' non  
 existit' usitat' fuerit, prædictus Jacobus Bagg adtunc & i-  
 bidem in præsentia & auditu dicti Majoris & aliorum  
 Capital' burgenf. prædict' sine aliqua causa rationabili  
 palam & publice dixit cuidam Thomæ Sherwill ibidem  
 tunc præsentis & uni duodecim Capital' burgenf. burgi  
 præd' adtunc & per spatium decem annorum præantea  
 existen' hæc falsa & scandalosa verba sequen', viz. **Thou**  
 (prædictum Tho. Sherwill innuendo) **art a seditious Fel-**  
**low**, ubi revera prædictus Thomas Sherwill de quocunque  
 tali crimine seditionis semper insuspectus vixit, & seipsum  
 de tempore in tempus tam in officio Majoratus burgi  
 prædicti, quam in loco & Officio Capitalis burgenf. bur-  
 gi illius honeste, discrete summaque integritate se gesserit  
 & gubernaverit: Et ulterius dicto Domino Regi Certifi-  
 camus, quod cum idem Dominus Rex die Januarii anno  
 Regni sui duodecimo supradicti, apud Westm' in Com'  
 Midd', de advisamento Dominor' de privato consilio suo  
 hujus Regni Angl' ordinaverat & mandaverat per publi-  
 cam proclamationem suam & per literas propriis mani-  
 bus diversorum Dominor' de privato concilio suo signa-  
 tas, quod nullus Lanius nec alia persona quæcunque  
 mactaret aut venditioni exponeret aliquam carnem pro  
 victualibus tempore quadrages. tunc prox. futur' contra  
 leges aut statuta hujus Regni Angl', Et quod omnes Ma-  
 jores & alii Capital' officarii in burgis & villis incor-  
 porat' infra hoc regnum Angl' in initio prædicti tempo-  
 ris quadragesimæ tunc prox' futur' vel antea, causarent  
 omnes Caupones, Victualar' Hospites, Anglice **Inn-keep-**  
**ers**, Cauponar', Anglice **Keepers of Ordinary Tables**,  
 & Tabernarios, Anglice **Ale-house-keepers**, infra præ-  
 cinctum jurisdictionis suæ obligari dicto Domino Regi  
 per scriptum obligatorium, quod ipsi non absourent,  
 Anglice **should not dress** aliquam carnem pro victuali-  
 bus durante dicto tempore quadragesimæ tunc prox' fu-  
 tur': Cumque etiam postea scilicet viceffimo die Februar'  
 Anno duodecimo supradicti quidam Joh. Clement adtunc  
 & adhuc Major burgi de Plymouth prædict' juxta officii  
 sui

ca supra.

' sui debitum & in obedientia dict' ordinationis & mandati  
 ' dicti Domini Regis mandaverat omnibus victualariis, Cau-  
 ' ponibus, Hospitibus, Cauponariis, & tabernariis prædictis  
 ' infra præcinctum burgi prædicti, quod ipsi devenirent obli-  
 ' gat' per script' suum obligator' ad usum dicti Domini Regis  
 ' secundum tenorem & exigentiam præd' ordinationis & man-  
 ' dati dicti Domini Regis, & debitam executionem ordina-  
 ' tionis prædictæ in ea parte requirebat & efficere conatus  
 ' fuit infra burgum præd' præfatus Jacobus Bagg præmissorum  
 ' satis sciens, & malevolam dispositionem & intentionem su-  
 ' am prædictam continuando, prædict' vicesimo die Februarii  
 ' Anno duodecimo supradict', apud Plymouth prædict', de-  
 ' bitam executionem ordinationis prædict' & præd' mandati  
 ' dicti Domini Regis impediri & evacuare conatus fuit &  
 ' attemptabat, & ea intentione eodem vicesimo die Februarii  
 ' apud Plymouth præd' diversis inhabitantibus burgi prædict'  
 ' & aliis ligeis dicti Domini Regis ibidem existen', & com-  
 ' municationem cum præf. Jacobo Bagg de & super negotio  
 ' illo ad tunc & ibidem habentibus, palam & publice dixit  
 ' & propalavit hæc Anglicana verba sequent' viz. (a) *Walter* (a) This is no  
 ' *Dayo?* (præfatum Joh. Clement innuendo) *doth moze* Cause of disfran-  
 ' *herein than he need, and moze than he can well answer,* chisement with-  
 ' innuendo quod dictus Joh. Clement in requirendo præ- out Question,  
 ' dictos Caupones, Victualarios, Hospites, Cauponarios, & also the innuen-  
 ' do is idle and  
 ' tabernarios devenire obligat' ad usum dicti Dom' Regis se- vain.  
 ' cundum præd' ordinationem & mandatum dicti Dom' Reg.  
 ' fecerat plus quam facere opus fuit & plus quam bene re-  
 ' spondere potuit, ratione cujus quidem propalation' diversi  
 ' Caupones, Victualarii, Hospites, Cauponar' & Tabernarii,  
 ' infra burgum prædict' inhabitantes, penitus recusabant obli-  
 ' gari dicto Domino Regi secundum præd' ordinationem &  
 ' mandatum dicti Domini Regis: (b) Et ulterius Certifica- (b) They have  
 ' mus, qd' prædictus Major & communitas burgi de Plymouth not alleged,  
 ' & prædecessores sui de tempore cujus contrarii memoria That there was a  
 ' hominum non existit, haberent & habere consueverunt in- Corporation  
 ' fra burgum prædict' quandam custumam vini communiter from Time,  
 ' vocat. *Wine Weight*, alias *Wine Wite*, solubil' per whereof, &c.  
 ' quemcunq; tabernarium vinum vendentem infra burgum 1 Ro. Rep. 224,  
 ' prædict' de qua quidem custuma vini prædict' Major & com- 225.  
 ' munitas de toto tempore supradict' quiete & pacifice feisit'  
 ' fuer' quousque prædict' Jacobus Bagg vicesimo nono die No-  
 ' vem' An' regni dicti Dom' Reg. nunc Angl' quarto apud Ply-  
 ' mouth præd' perfide & maliciose præstifabat cum quodam W.  
 ' Bently & Tho. Lyde tabernariis & vini venditorib' infra burg- These Words  
 ' præd' existen', eis perfide revelando diversa secreta consilia, are too genera  
 O concer-



concernentia Communem utilitat' burgi præd', & ipsos  
 Will' & Tho. ad tunc & ibidem persuadebat, quod ipse  
 non amplius solverent prædictam Custumam vini vocat'  
 Wine Weight, alias Wine Wite, nec aliquam firmam  
 aut denariorum summam proinde præf. Majori & Com-  
 munitati, quo quidem vicesimo nono die Novem. Anno  
 quarto supradicto prædictus Jacobus Bagg tunc existens u-  
 nus duodecim Capital' Burgens. de communi consilio burgi  
 prædicti, apud Plymouth prædict' perfide & maliciose dixit  
 præfat' Will' Bently & Tho. Lyde hæc Anglicana verba  
 sequen', viz. (a) **You need not to pay the Money** (innu-  
 endo quandam firmam per ipsos Tho. & Will' pro custu-  
 ma prædict' ante tunc præf. Majori & Communitat' solut'  
 for the Wine Weight any longer except you list, for it  
 is not due unto them, \* ratione quorum quidem perfidio-  
 forum & malitiosorum verborum prædicti Will' Bently &  
 Tho. Lyde firmam prædict' solvere penitus recusabant &  
 adhuc recusant, Et ratione inde diversæ Lites & controversiæ  
 ortæ sunt & posthac oriri verisimiles sunt int' præf. Will'  
 Bently & Tho. Lyde & præf. Majorem & Communitatem  
 pro custumis vini prædict' & firmam prædicta ad dampnum  
 & magnum præjudicium præf. Majoris & Communitatis:  
 Et ulterius dicto Domini Regi certificamus, quod præd'  
 Jacobus Bagg primo die Maii Anno Regni Domini Re-  
 gis nunc Angl' duodecimo, & diversis aliis diebus & vici-  
 bus tunc præantea apud Plymouth præd' perfidiose dixit  
 diversis inhabitantibus burgi prædicti & aliis ligeis dicti  
 Dom' Regis super communicationem inter eos & præfatum  
 Jac' tunc præhabit' de & concernen' libertatibus & privi-  
 legiis burgi præd' quod ipse idem Jac' Bagg || (b) subverte-  
 ret & evacuaret Chartam, Anglice the Charter, burgi præ-  
 dicti, innuendo Chartam prædictam per præf. nuper re-  
 ginam Elizabetham præfat' Majori & communitati ut præ-  
 fertur concessam, Et quod ipse idem Jacobus libertates &  
 privilegia burgi præd' altericaret, Anglice would call in  
 Question, & eadem privilegia & libertates subverteret:  
 Et ulterius dicto Domino Regi certificamus, quod postea  
 scilicet decimo septimo die Aprilis jam ultimo præterito  
 præd' Jacobus Bagg in dicto brevi nominatus ex causis  
 prædictis per Majorem & Communit' burgi præd' ab offi-  
 cio unius Capital' Burgensium & Magistratum burgi præd'  
 amotus fuit, Johannes Clement Mayor.

(a) This was but  
 his Opinion,  
 which altho' it  
 be false, is no  
 Cause of disfran-  
 chisement, and  
 his Opinion can't  
 be a Prejudice to  
 their Right; the  
 innuendo is  
 vain and idle.  
 1 Ro. Rep. 224,  
 225, 226.  
 \* Yet Remedy  
 lies for this Dun-  
 ty, if they have  
 Right to it by  
 the Law.

(b) || Non officiar  
 affectus nisi legi-  
 quarum effectus;  
 and it may be  
 the Charter was  
 void in Law; or  
 that it was pro-  
 cured by the les-  
 ser Number of the  
 Burgesses  
 and then it might  
 be removed, and  
 so he might justifi-  
 fy these Words.  
 1 Ro. Rep. 226.  
 (c) 1 Ro. Rep.  
 224, 226.  
 (d) 2 Brownl.  
 720.

*Super tota materia & ex Causis prædictis* it was resolved by the Court, That there was not any just Cause to remove him; and therefore by the Award of the Court, a Writ was directed to the Mayor and Commonalty to restore him.

And in this Case, 1. it was resolved, That to this Court of King's Bench belongs (a) Authority not only to correct Errors in judicial Proceedings, but other Errors and Misdemeanors extrajudicial tending to the Breach of Peace, or Oppression of the Subjects, or to the raising of Faction, Controversy, Debate, or to any manner of Misgovernment; so that no Wrong or Injury, either Publick or Private, can be done, but that it shall be reformed or punished by due Course of Law.

For the general learning of This and the like Cases, all that was said in the Argument of this Case, was divided into these Questions. 1. What were sufficient Causes to (b) disfranchise a Citizen, Freeman or Burgefs of any City or Borough incorporate, and to discharge him of his Freedom and Liberty, and what not? 2. How and by whom, and in what Manner such Citizen or Burgefs shall be disfranchised? 3. If the Return of his Removal, or Disfranchisement, imports sufficient Matter, but is False; what Remedy shall be for the Party grieved in such Case?

As to the first it was resolved, That the Cause of Disfranchisement ought to be grounded upon an Act which is (c) against the Duty of a Citizen or Burgefs, and to the Prejudice of the publick Good of the City or Borough whereof he is a Citizen or Burgefs, and against his Oath which he took when he was sworn a Freeman of the City or Borough; for altho' one shall not be charged in any Judicial Court for the Breach of a (d) general Oath, which he took when he became Officer, Minister, Citizen, Burgefs, &c. yet if the Act which he doth be against the said (e) Duty and Trust of his Freedom, and to the Prejudice of the City or Borough, and also against his Oath, it inforces much the Cause of his Removal, and there is a Condition in Law tacite annexed to his Freedom or Liberty; which if he breaks, he may be disfranchised; but Words of Contempt, or (f) *contra bonos mores*, altho' they be against

Q 2

(a) 4 Inst. 711  
1 Roll. Rep. 235  
Raymond 103

(b) Cro. Jac.  
506. Cro. Eliz.  
33. 1 Roll. Rep.  
409. 3 Bullstr.  
189. 190. Styles  
478. 479. 2 Roll.  
455

(c) Cro. El. 335  
4 Leon. 61

(d) 3 Inst. 166.  
1 Roll. Rep. 235  
Dyer 333. pl. 281

(e) Palm. 144.  
1 Roll. Rep. 224.

235. 409. Pol-  
lexfen's Arg. in  
Quo War. 1105

Poph. 134.  
2 Roll. Rep. 111  
Godb. 281.

Palm. 455.  
(f) Cro. Jac.  
306. Moor 411

512

## JAMES BAGG's Case. PART XI.

(a) Moor 247,  
411, 412.  
3 Bulltr. 189,  
130. 1 Roll. Rep.  
73, 224, 225.  
Cro. El. 78, 689.  
Cro. Jac. 506.  
Palm. 127.

(b) 1 Roll. Rep.  
226r

(c) Cr. Jac. 540.

(d) Sawyer's  
Arg. in Quo  
Warr. 21. An-  
tea 72. b. 49. b.  
1 Roll. Rep. 86,  
167.  
Br. Deposition  
21. Godb. 259.  
Godolph. Abr.  
174, 176.  
20 H. 6. 46. 2.  
3 Bulltr. 167.

the Chief Officer, or his Brethren, are (a) good Causes to punish him, as to commit him 'till he has found good Sureties of his good Behaviour, but not to disfranchise him: So if he intends, or endeavours of himself, or conspires with others, to do a Thing against the Duty or Trust of his Freedom, and to the Prejudice of the publick Good of the City or Borough, but he doth not execute it, it is a good Cause to punish him, as is aforesaid, but not to disfranchise him, for (b) *Non officit conatus nisi sequatur effectus*; and *Non officit affectus, nisi sequatur affectus*. And the Reason and Cause thereof is, That (c) when a Man is a Freeman of a City or Borough, he has a Freehold in his Freedom for his Life, and with others, in their Politick Capacity, has an Inheritance in the Lands of the said Corporation, and Interest in their Goods, and perhaps it concerns his Trade and Means of Living, and his Credit and Estimation; and therefore the Matter which shall be a Cause of his Disfranchisement, ought to be an Act or Deed, and not a Conation, or an Endeavour, which he may repent of before the Execution of it, and from whence no Prejudice ensues; and they who have Offices of Trust and Confidence shall not forfeit them by Endeavours and Intentions to do Acts, altho' they declare them by express Words, unless the Act itself shall ensue, as if one who has the Keeping of a Park should say, that he will kill all the Game within his Custody, or will cut down so many Trees within the Park, but doth not kill any of the Game, nor cut down any Trees, it is not any Forfeiture, & sic de similibus, for in all such Cases, either there ought to be an Act, or such a Negligence as tantamounts, s. when Destruction of the Game, &c. ensues. If a Bishop, Arch-Deacon, Parson, &c. fells all the Trees, it is a good Cause of (d) Deprivation, 2 H. 4. 3. b. So if a Prior aliens the Land which he has *in jure domus sue*, it is a Cause of Deprivation, as appears in 9 E. 4. 34. a. If a Prior makes Dilapidation, it is a good Cause to deprive him, as it is held in 29 E. 3. 16. a. 28 H. 6. 46. a. But if it be but a Conation, or Endeavour, without an Act done, in none of those Cases is it any Cause of Deprivation, for in those Cases, *voluntas non reputatur pro facto*. And if a Contempt (be

(be it of Omission or Commission) should be a good Cause to disfranchise, the best Citizen or Burgesses might be, at one Time or other, disfranchised, which would be a great Cause of Faction and Contention in Cities and Boroughs.

As to 2 it was resolved, That no Freeman of any Corporation (a) can be disfranchised by the Corporation, unless (a) Styl. 478, 479. they have Authority to do it either by the exprefs Words of the Charter, or by Prescription; but if they have not Authority neither by Charter or by Prescription, then he ought to be convicted by Course of Law before he can be removed, and it appears by *Magna Charta, cap. 29. (b) Nul- (b) 1 Rol. Rep. 225. 4 Leon 61.* *lus liber homo capiatur, vel imprisonetur, aut disseisetur de libero tenemento suo, vel libertatibus, vel liberis consuetudinibus suis, &c. nisi per legale iudicium parium suorum, vel per legem terra,* and if the Corporation have Power by Charter or Prescription to remove him for a reasonable Cause, that will be *per legem terra*; but if they have no such Power, he ought to be convicted *per iudicium parium suorum, &c.* as if a Citizen, or Freeman, be attainted of Forgery or Perjury, or Conspiracy, at the King's Suit, &c. or of any other Crime whereby he is become Infamous, upon such Attainder they may remove him: So if he be convicted of any such Offence which is against the Duty and Trust of his Freedom, and to the publick Prejudice of the City or Borough whereof he is free, and against his Oath, as if he has burnt or defaced the Charters, or Evidences of the City or Borough, or rased or corrupted them, and is thereof convicted and attainted, these and the like are good Causes to remove him. And altho' they have lawful Authority either by Charter or Prescription to remove any one from the Freedom, and that they have just Cause to remove him; yet if it appears by the Return, that they have proceeded against him without (c) hearing him answer to what was objected, or that he (c) 2 Sid. 97. was not reasonably warned, such Removal is void, and shall not bind the Party, (d) *quia quicumque aliquid statuerit parte 1 Sid. 146 155. Palm. 453. 1 Rol. Rep. 228. 1 Mod. Rep. 287. Styl. 447, 453. (d) 6 Co. 52. a. 1* *znandata altera, equum licet statuerit, haud equus fuerit,* and such Removal is against Justice and Right.

As to 3 Question, If they have Power by Charter or Prescription to disfranchise one, and afterwards the (e) (e) Doct. pla. 189. Judges of the King's Bench award a Writ to them to restore him, or signify the Cause, &c. and they certify a sufficient Cause to remove him, but it is false; then the Court can't award a Writ to restore him, neither can any

## JAMES BAGG'S Case. PART XI.

any Issue be taken thereupon, because the Parties are Strangers, and have no Day in Court; (a) but the Party grieved may well have an Action upon the special Matter against those who made the Certificate, and aver it to be false, and if it is found for him, and he obtains Judgment against them, so that it may appear that the Justices that the Causes of the Return are false, then they shall award a Writ of Restitution, and this is proved by the Reason of the Book of *9 H. 6. 44. a.* where it is held, that upon a *Corpus cum causa* if the Cause returned be sufficient, but in Truth is false, the Court ought to remand the Prisoner, and he is at no Mischief, for if they have not Authority, or the Cause be false, he may have a Writ of False Imprisonment, (*vid. Fitz. Tit. Corpus cum causa*, 2. the said Case of *9 H. 6. 44.* well abridged.) So in the other, upon such false Return, the Party grieved may have a special Action upon his Case, as is aforesaid. Also if the Party grieved, who is so disfranchised, is for the Causes of his Disfranchisement committed to Prison, or if his Shop is shut up, or if with Force he is removed out of their Assembly, &c. in these and the like Cases he may have an Action of false Imprisonment, or an Action of Trespas *quare domum fregit*, or of Assault and Battery, and in those Actions, the Causes of his Disfranchisement ought to be pleaded, and shall be decided according to Law, *8 E. 3. 437. 8 Ass. 29. 31.* If a Layman is Patron of an Hospital, he may visit it, and depose or deprive the Master for good Cause, but if he is deprived without just Cause, and by Colour thereof is ousted, he shall have an Affise because he has not other Remedy; but if the Ordinary deprives a Master who is Ecclesiastical without Cause, he shall not have an Affise, for he has other Remedy by Appeal, *vide 6 H. 7. 14. a. F. N. B. 4 B. 27 E. 3. 85. 10 Eliz. Dyer 273. pl. 35.*

Also it was resolved, That such return of Disfranchisement ought to be certain, so that sufficient Matter may appear to the Court to disfranchise the Party, and *eo potius*, because the Party can't have answer to it, as is aforesaid.

Lastly, It was resolved, That for none of the Causes contained in the said Certificate, the said *James Bagg* by Law ought to be removed, and therefore by the whole Court a Writ was awarded to restore him to his Franchise and Freedom, and so he was.

Nota

(a) 1 Mod. Rep.  
83. 3 Keb. 401.  
430. 10 Co.  
139. b.

Dyer 209. a.

Cro. Jac. 506.

*Nota* Reader, In the Argument of this Case much was said to exhort Citizens and Burgeses to yield obedience and Reverence to the Chief Magistrates in their Cities and Boroughs, because they derive their Authority from the King, and *Obedientia est Legis essentia*, and therefore it appears before, how they shall be punished who commit any Contempt against them: But the principal Question of this Case was, What Acts were sufficient Causes in Law for the Disfranchisement of any Citizen or Burges, &c.

## Casuum istius Libri series:

		Fol.
* LORD de la Ware's Case	<i>in Parliam.</i> 29 Eliz.	1
2 Auditor Curle's Case	<i>Hill.</i> 7 Jacobi	2
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16 Bentham's Case	<i>Mich.</i> 12 Jacobi	56
17 Dr. Foster's Case	<i>Mich.</i> 12 Jacobi	ibid.
18 Magdalen College Case	<i>Pasch.</i> 13 Jacobi	66
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21 The Earl of Devonshire's Case	<i>Hill.</i> 4 Jacobi	89
22 James Bagg's Case	<i>Trin.</i> 13 Jacobi	93

Nomina tam Justiciariorum utriusque banci  
 & Baronum Scaccarii, quam Servientium  
 ad legem tempore editionis undecimi hu-  
 jus Commentarii.

De Banco Regis.

<i>Edwardus Coke,</i>	}	mil'
<i>Johannes Crook,</i>		
<i>Johannes Doderidge,</i>		
<i>Robertus Houghton,</i>		

De Communi Banco.

<i>Henricus Hobart,</i>	}	mil'
<i>Petrus Warburton,</i>		
<i>Humphridus Winch,</i>		
<i>Augustinus Nichols,</i>		

De Scaccario.

<i>Laurentius Tanfield,</i>	}	mil'
<i>Georgius Snigge,</i>		
<i>Jacobus Altham,</i>		
<i>Edwardus Bromley.</i>		

Servientes ad Legem.

<i>Henricus Montague, mil'</i>	<i>Leonardy Bawtree,</i>
<i>Johannes Sherley,</i>	<i>Henricus Finch,</i>
<i>Thomas Harris,</i>	<i>Thomas Chamberlain,</i>
<i>Robertus Barker,</i>	<i>Franciscus Moore,</i>
<i>Richardus Hutton,</i>	<i>Richardus Athow,</i>
<i>Johannes Davis, mil'</i>	<i>Johannes Moore,</i>
<i>Randallus Crew, mil'</i>	<i>Franciscus Harvey,</i>
<i>Robertus Hitcham, mil'</i>	<i>Carolus Chyborne,</i>
<i>Georgius Wyld.</i>	<i>Thomas Richardson.</i>
<i>Wilhelmus Towse,</i>	

F I N I S

A GENERAL  
TABLE

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Adam and Lambert's Case, 40 Eliz.	4	96
Aldred's Case, 8 Jac.	9	58
Alden's Case, 43 Eliz. —	5	2d Part. 105
Altham's Case, 8 Jac. —	8	148
Alton Woods Case, 37 Eliz. —	1	26
Ambrosia Gorge's Case, 41 Eliz. —	6	22
Andrew's and L. Cromwel's Case, 43 Eliz.	2	69
Anne Mayoe's Case, 35 Eliz. —	1	141
Archer's Case, 36 Eliz. —	1	63
Arthur and Rouse's Case, 29 Eliz. —	4	24
Arundel's Case, 36 Eliz. —	6	14
Afcough's Case, 9 Jac. —	9	134
Ashpool's Case, 28 Eliz. —	7	6
Auditor Curle's Case, 7 Jac. —	11	2

B.

<b>B</b> Addie and Philip's Case, 24 Eliz.	4	19
Bagge's Case, 13 Jac. —	11	93
Baker's Case, 42 Eliz. —	5	2d Part. 104
Baker and Green's Case, 44 Eliz. —	6	29
Baldwin's Case, 31 Eliz. —	2	18
Bankrupts, and their Case, 31 Eliz. —	2	25
Barham's Case, 45 Eliz. —	4	20
Barretry Case, 30 Eliz. —	8	36
Barwick's Case, 39 Eliz. —	5	2d Part. 93
Baskervil's Case, 27 Eliz. —	7	28
Baspoole's Case, 7 Jac. —	8	97

A 2

Bath

*The General Table.*

Baten's Case, 8 Jac.	9	53
Paxter and Sutton's Case, 10 Jac.	10	1
Bayncham's Case, 30 Eliz.	5	2d Part. 36
Beaumont's Case, 10 Jac.	9	138
Beaufage's Case, 10 Jac.	10	99
Beecher's Case, 6 Jac.	8	58
Bedel's Case, 5 Jac.	7	40
Bellamie's Case, 3 Jac.	6	38
Bentham's Case, 12 Jac.	11	56
Berresford's Case, 5 Jac.	7	41
Bertefworth's Case, 22 Eliz.	2	27
Bevil's Case, 28 Eliz.	4	6
Beverley's Case, 1 Jac.	4	123
Bewley's Case, 9 Jac.	9	150
Bishop's Case, 34 Eliz.	5	2d Part. 37
Bishop of Bath's Case, 3 Jac.	6	35
Bishop of Canterbury's Case, 38 Eliz.	2	46
Bishop of Oxford and Whitt. Case, 10 Jac.	10	63
Bishop of Winchester's Case, 38 Eliz.	2	38
Bishop of Sarum's Case, 11 Jac.	10	58
Bibith and Goffe's Case, 39 Eliz.	4	43
Biggen's Case, 41 Eliz.	5	2d Part. 50
Birchley's Case, 28 Eliz.	4	16
Bingham's Case, 42 Eliz.	2	82
Blackemore's Case, 8 Jac.	8	156
Blake's Case, 3 Jac.	6	43
Blithe and Stanhop's Case, 27 Eliz.	4	15
Blomfield's Case, 39 Eliz.	5	2d Part. 86
Bohun's Case, 39 Eliz.	5	2d Part. 43
Bonham's Case, 6 Jac.	8	107
Booth's Case, 36 Eliz.	5	2d Part. 77
Boraston's Case, 29 Eliz.	3	16
Borough's Case, 38 Eliz.	4	72
Boswel's Case, 3 Jac.	6	48
Bothy's Case, 3 Jac.	3	30
Boulston's Case, 40 Eliz.	5	2d Part. 104
Bowle's Case, 13 Jac.	11	79
Boyton's Case, 35 Eliz.	3	43
Bozoun's Case, 27 Eliz.	4	34
Bradshaw's Case, 10 Jac.	9	60
Brediman's Case, 4 Jac.	6	56
Bredon's Case, 38 Eliz.	1	67
Bridge's and Scrope's Case, 10 Jac.	10	144
Britridge's Case, 45 Eliz.	4	18
Brook and Vaux's Case, 28 Eliz.	4	39
Broughton's Case, 43 Eliz.	5	2d Part. 24
Brown's Case, 24 Eliz.	4	21
Brudnel's Case, 34 Eliz.	5	2d Part. 9
Bruerton's Case, 36 Eliz.	6	1
Buckler's Case, 40 Eliz.	2	55
Buckmeer's Case, 7 Jac.	8	86
Bucknal's Case, 42 Eliz.	9	33
Bulhead and Studeley's Case, 45 Eliz.	4	16
Bulleyn's Case, 5 Jac.	6	77
		Bullock's

The General Table.

Bullock and Dible's Case, 35 Eliz.	4	23
Bulwer's Case, 27 Eliz.	7	1
Burrel's Case, 5 Jac.	6	72
Bunting's Case, 28 Eliz.	4	29
Burford's Case, 1 Jac.	4	121
Bury's Case, 41 Eliz.	5 2d Part.	98
Burton's Case, 34 Eliz.	5 2d Part.	69
Butler and Baker's Case, 34 Eliz.	3	25
Butler and Goodal's Case, 40 Eliz.	6	21
But's Case, 42 Eliz.	7	23

C.

<b>C</b> Alvine's Case, 6 Jac.	7	1
Caly's Case, 26 Eliz.	8	32
Capel's Case, 23 Eliz.	1	54
Cariden and Weaver's Case, 37 Eliz.	4	16
Carpenter's Case, 8 Jac.	8	146
Case of Alton Woods 37 Eliz.	1	26
Case of Bankrupts, 31 Eliz.	2	25
Case of Barretry, 30 Eliz.	8	36
Case of Corporations, 41 Eliz.	4	77
Case of Sadlers, 30 Eliz.	4	54
Case of Discont. of Procefs, 1 Jac.	7	30
Case of the City of London, 7 Jac.	8	121
Case of Fines, 44 Eliz.	3	84
Case of Fine levied by Roy, 2 Jac.	7	32
Case of Ecclesiastical Persons, 44 Eliz.	5 2d Part.	14
Case De Libellis famosis, 3 Jac.	5 2d Part.	125
Case of Market Overt, 38 Eliz.	5 2d Part.	83
Case of Major Esc. de Lyn, 10 Jac.	10	120
Case of Souldiers, 43 Eliz.	6	27
Case of Swans, 34 Eliz.	7	15
Case of Thetford School, 7 Jac.	8	130
Case of the Churchwardens of St. Saviour's in Southwark, 11 Jac.	10	66
Case of Marshalsea, 10 Jac.	10	68
Cases of Quare Impedit, 31 Eliz.	7	25
Cases of Penal Statutes, 2 Jac.	7	36
Cases of Pardons, 29 Eliz.	6	13
Cases of Robberies, 27 Eliz.	7	6
Catesby's Case, 4 Jac.	6	61
Chamberlain of London's Case, 33 Eliz.	5 2d Part.	62
Chancellor of Oxford's Case, 11 Jac.	10	54
Cheyne's Case, 10 Jac.	10	118
Chudley's Case, 31 Eliz.	1	113
Clark's Case, 38 Eliz.	5 2d Part.	64
Clark and Penifather's Case, 26 Eliz.	4	23
Claiton's Case, 28 Eliz.	5 2d Part.	1
Claiton's Case, 37 Eliz.	5 2d Part.	70
Clifton's Case, 36 Eliz.	5 2d Part.	75
Clifton and Molineux's Case, 28 Eliz.	4	27
Clunne's Case, 11 Jac.	10	127
Codwell's Case, 36 Eliz.	5 2d Part.	42

The General Table.

Cook's Case, 41 Eliz.	— — — —	5 2d Part.	46
Colier's Case, 37 Eliz.	— — — —	6	16
Connie's Case, 6 Jac.	— — — —	9	82
Corber's Case, 41 Eliz.	— — — —	1	77
Coultter's Case, 41 Eliz.	— — — —	5 2d Part.	30
Countess of Northumberland's Case, 40 Eliz.	— — — —	5 2d Part.	97
Countess of Rutland's Case, 2 Jac.	— — — —	5 2d Part.	25
Countess of Rutland's Case, 35 Eliz.	— — — —	5 2d Part.	42
Countess of Rutland's Case, 3 Jac.	— — — —	6	52
Countess of Salop's Case, 43 Eliz.	— — — —	5 2d Part.	13
Cratchwood and Foifton's Case, 30 Eliz.	— — — —	4	31
Crogate's Case, 6 Jac.	— — — —	8	67
Cromwel and Tavernor's Case, 26 Eliz.	— — — —	4	27
Cromwel and Andrew's Case, 43 Eliz.	— — — —	2	69
Cross and Oxford's Case, 41 Eliz.	— — — —	4	18
Cuppledike's Case, 44 Eliz.	— — — —	3	5
Cutler and Dixon's Case, 28 Eliz.	— — — —	4	14

D.

<b>D</b> Arley and Wetherel's Case, 25 Eliz.	— — — —	4	40
Davenport's Case, 8 Jac.	— — — —	8	144
Davie's and Gardiner's Case, 35 Eliz.	— — — —	4	16
Deal and Ridgden's Case, 36 Eliz.	— — — —	4	23
Dean and Chapter of Norwich Case, 40 El.	— — — —	3	73
Dean and Chapter of Windfor's Case, 44 El.	— — — —	5 2d Part.	24
Dean and Chapter of Worcester's Case, 3 Jac.	— — — —	6	37
Dibley and Bullock's Case, 35 Eliz.	— — — —	4	23
Dickinson and Gerard's Case, 33 Eliz.	— — — —	4	18
Digby's Case, 41 Eliz.	— — — —	4	78
Digby's Case, 8 Jac.	— — — —	8	165
Digge's Case, 40 Eliz.	— — — —	1	157
Dillon and Freyne's Case, 31 Eliz.	— — — —	1	113
Discontinuance of Process and Cases, 1 Jac.	— — — —	7	30
Doctor Ayray's Case, 11 Jac.	— — — —	11	18
Doctor Bonham's Case, 6 Jac.	— — — —	8	107
Doctor Drury's Case, 8 Jac.	— — — —	8	139
Doctor Foster's Case, 12 Jac.	— — — —	11	56
Doctor Grant's Case, 11 Jac.	— — — —	11	15
Doctor Huffie's Case, 9 Jac.	— — — —	9	71
Doctor Leifield's Case, 8 Jac.	— — — —	10	88
Doddington's Case, 37 Eliz.	— — — —	2	32
Dormer's Case, 35 Eliz.	— — — —	5 2d Part.	40
Dowdal's Case, 3 Jac.	— — — —	6	46
Dowman's Case, 26 El.	— — — —	9	1
Drury's Case, 43 Eliz.	— — — —	4	89
Drury's Case, 8 Jac.	— — — —	8	139
Drywood's Case, 42 Eliz.	— — — —	5 2d Part.	48
Dumpor's Case, 45 Eliz.	— — — —	4	119

E.

<b>E</b> arl of Bedford's Case, 29 Eliz.	— — — —	7	7
<b>E</b> arl of Cumberland's Case, 6 Jac.	— — — —	8	167

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Earl of Devonshire's Case, 4 Jac.	ii	89
Earl of Pembroke's Case, 36 Eliz.	5 2d Part.	76
Earl of Rutland's Case, 6 Jac.	8	55
Eaton and Allen's Case, 40 Eliz.	4	16
Eden's Case, 37 Eliz.	6	15
Edridge's Case, 1 Jac.	5 2d Part.	118
Elmer's Case, 30 Eliz.	5 2d Part.	2
Englefield's Case, 33 Eliz.	7	11

F.

<b>F</b> amous Libel and Case thence, 3 Jac.	5 2d Part.	125
Fermor's Case, 44 Eliz.	3	77
Ferrer's Case, 41 Eliz.	6	7
Finch's Case, 3 Jac.	6	39
Fine's Case, 44 Eliz.	3	84
Fine levied by the King, and Case thence, 2 Ja.	7	32
Fitz-Herbert's Case, 37 Eliz.	5 2d Part.	79
Fitz-William's Case, 2 Jac.	6	32
Flower's Case, 41 Eliz.	5 2d Part.	99
Floyer's Case, 8 Jac.	9	125
Foljamb's Case, 43 Eliz.	5 2d Part.	115
Ford's Case, 37 Eliz.	5 2d Part.	81
Force and Heinbling's Case, 31 Eliz.	4	60
Foster's Case, 32 Eliz.	5 2d Part.	59
Fox's Case, 7 Jac.	8	93
Foxley's Case, 43 Eliz.	5 2d Part.	109
Foxton and Colston's Case, 35 Eliz.	4	23
Foyfton and Cratchwood's Case, 30 Eliz.	4	31
Francis's Case, 7 Jac.	8	89
Francklin's Case, 36 Eliz.	5 2d Part.	46
Freeman's Case, 41 Eliz.	5 2d Part.	45
French's Case, 19 Eliz.	4	31
Frost's Case, 41 Eliz.	5 2d Part.	89
Fulwood's Case, 33 Eliz.	4	64
Fyrc'h and Huckley's Case, 36 Eliz.	4	23

G.

<b>G</b> Age's Case, 41 Eliz.	5 2d Part.	45
Gardiner and Davies, 35 Eliz.	4	16
Gardiner's Case, 21 Eliz.	5 2d Part.	37
Garnon's Case, 40 Eliz.	5 2d Part.	88
Gascoigne and Pigot's Case, 40 Eliz.	5 2d Part.	29
Gateward's Case, 4 Jac.	6	59
Gee and Snag's Case, 39 Eliz.	4	16
Sir Gilbert Gerrard's Case, 33 Eliz.	4	18
Goddard's Case, 26 Eliz.	2	5
Godfry's Case, 12 Jac.	11	42
Goffe and Bibith's Case, 39 Eliz.	4	43
Gooch's Case, 33 Eliz.	5 2d Part.	60
Goodal's Case, 40 Eliz.	5 2d Part.	95
Goodal and Butler's Case, 40 Eliz.	6	21
Gore's Case, 9 Jac.	9	81

The General Table.

Gorge's Case, 41 Eliz.	—	6	22
Gravenor and Tede's Case, 36 Eliz.	—	4	23
Gray's Case, 37 Eliz.	—	5	2d Part. 73
Green's Case, 44 Eliz.	—	6	29
Greenley's Case, 7 Jac.	—	8	71
Greifley's Case, 30 Eliz.	—	8	38
Gregory's Case, 38 Eliz.	—	6	19

H.

<b>H</b> Aidon's Case, 20 Eliz.	—	3	7
Hale's Case, 8 Jac.	—	8	172
Hall's Case, 2 Jac.	—	5	2d Part. 51
Hall's Case, 31 Eliz.	—	7	25
Hall and Stanley's Case, 10 Jac.	—	10	68
Halling's Case, 38 Eliz.	—	5	2d Part. 22
Hamond and Huberd's Case, 43 Eliz.	—	4	27
Hargrave's Case, 42 Eliz.	—	5	2d Part. 31
Harlakenden's Case, 31 Eliz.	—	4	62
Harpur's Case, 12 Jac.	—	11	23
Harris and Jay's Case, 41 Eliz.	—	4	30
Harrison's Case, 40 Eliz.	—	5	2d Part. 28
Hellier's Case, 41 Eliz.	—	6	24
Hemblin and Force's Case, 31 Eliz.	—	4	60
Henry Finch's Case, 3 Jac.	—	6	39
Henslo's Case, 42 Eliz.	—	9	36
Henstead's Case, 37 Eliz.	—	5	2d Part. 10
Hext and Yeoman's Case, 27 Eliz.	—	4	15
Hickmot's Case, 8 Jac.	—	9	52
Higgen's Case, 3 Jac.	—	6	44
Higgenbottom's Case, 35 Eliz.	—	5	2d Part. 19
Hoc's Case, 34 Eliz.	—	5	2d Part. 70
Hoc's Case, 42 Eliz.	—	5	2d Part. 89
Hoe and Tailour's Case, 37 Eliz.	—	4	30
Holland's Case, 39 Eliz.	—	4	75
Holt's Case, 9 Jac.	—	9	131
Hopkin's and Down's Case, 36 Eliz.	—	4	29
Hubbert and Hammond's Case, 43 Eliz.	—	4	27
Huckley and Fitch's Case, 36 Eliz.	—	4	23
Hudson and Lee's Case, 31 Eliz.	—	4	43
Hungate's Case, 43 Eliz.	—	5	2d Part. 103
Hume and Ogle's Case, 33 Eliz.	—	4	42
Hynd's Case, 34 Eliz.	—	4	68

I.

<b>J</b> ackson and Neal's Case, 37 Eliz.	—	4	26
James and Rutlitch's Case, 42 Eliz.	—	4	17
Jay and Harris's Case, 41 Eliz.	—	4	30
Jeffry's Case, 32 Eliz.	—	5	2d Part. 64
Jenning's Case, 38 Eliz.	—	10	43
Jentleman's Case, 25 Eliz.	—	6	11
Jewel's Case, 30 Eliz.	—	5	2d Part. 3
Ke of Ely and Case thence, 7 Jac.	—	10	141

Ive's

The General Table.

Iye's Case, 40 Eliz.	—	5 2d Part.	11
Justice Windham's Case, 32 Eliz.	—	5 2d Part.	7

K.

<b>K</b> Eighley's Case, 7 Jac.	—	10	139
Kenne's Case, 4 Jac.	—	7	42
Kite and Queinton's Case, 31 Eliz.	—	4	25
Knight's Case, 31 Eliz.	—	5 2d Part.	54

L.

<b>L</b> Ambe's Case, 41 Eliz.	—	5 2d Part.	23
Lambe's Case, 8 Jac.	—	9	59
Lamper's Case, 10 Jac.	—	10	46
Lane's Case, 29 Eliz.	—	2	16
Laughter's Case, 37 Eliz.	—	5 2d Part.	21
Lee and Hudson's Case, 31 Eliz.	—	4	43
Legate's Case, 10 Jac.	—	10	109
Lepingwel and Bunting's Case, 28 Eliz.	—	4	29
Libellus famosus & casus inde, 3 Jac.	—	5 2d Part.	125
Liford's Case, 12 Jac.	—	11	46
Lillingston's Case, 5 Jac.	—	7	38
Lincoln College's Case, 38 Eliz.	—	3	53
Littleton's Case, 39 Eliz.	—	5 2d Part.	47
Lofield's Case, 10 Jac.	—	10	106
Long's Case, 2 Jac.	—	5 2d Part.	120
London, and Cafe thence, 7 Jac.	—	8	121
Loveday's Case, 6 Jac.	—	8	65
Low's Case, 7 Jac.	—	9	122
Luter and Melwich's Case, 30 Eliz.	—	4	26
Lutrel's Case, 43 Eliz.	—	4	84

M.

<b>M</b> Adam Yong's Case, 34 Eliz.	—	7	15
Magdalen's College Case, 13 Jac.	—	11	66
Mallory's Case, 43 Eliz.	—	5 2d Part.	111
Manning's Case, 7 Jac.	—	8	94
Markale's Case, 35 Eliz.	—	6	3
Market open, and Cafe thence, 38 Eliz.	—	5 2d Part.	83
Marques of Winchester's Case, 25 Eliz.	—	3	1
Marques of Winchester's Case, 41 Eliz.	—	6	23
Marsh, &c. and Lamb's Case, 8 Jac.	—	9	59
Mary's Case, 10 Jac.	—	9	111
Mayo's Case, 35 Eliz.	—	1	141
Mathewson's Case, 39 Eliz.	—	5 2d Part.	22
Maund's Case, 43 Eliz.	—	7	28
Melwich and Luter's Case, 30 Eliz.	—	4	26
Mercalf's Case, 12 Jac.	—	11	38
Michilborn's Case, 38 Eliz.	—	6	20
Middleton's Case, 1 Jac.	—	5 2d Part.	28
Middleton and Baker's Case, 42 Eliz.	—	5 2d Part.	104
Middleton and Osborn's Case, 11 Jac.	—	10	139

Might's



The General Table.

Might's Case, 7 Jac.	_____	8	163
Milbourn's Case, 29 Eliz.	_____	7	6
Mildmay's Case, 26 Eliz.	_____	1	175
Mitton's Case, 26 Eliz.	_____	4	32
Mollyneus and Clifton's Case, 28 Eliz.	_____	4	27
Monopoly's Case, 44 Eliz.	_____	11	84
More and Huffy's Case, 9 Jac.	_____	9	71
Morrice's Case, 27 Eliz.	_____	6	12
Murrel and Smith's Case, 34 Eliz.	_____	4	24

N.

<b>N</b> Neal and Jackson's Case, 57 Eliz.	_____	4	26
Nevil's Case, 2 Jac.	_____	7	33
Nichol's Case, 38 Eliz.	_____	5	2d Part. 43
Noke's Case, 41 Eliz.	_____	4	80

O.

<b>O</b> Gle and Hume's Case, 33 Eliz.	_____	4	42
Ognel's Case, 29 Eliz.	_____	4	48
Oland's Case, 44 Eliz.	_____	5	2d Part. 116
Orphans of London their Case, 35 Eliz.	_____	5	2d Part. 73
Osborn and Middleton's Case, 11 Jac.	_____	10	130
Oxenbridge and Hickmor's Case, 8 Jac.	_____	9	52
Oxford and Cross's Case, 41 Eliz.	_____	4	18

P.

<b>P</b> Ackman's Case, 37 Eliz.	_____	6	18
Page's Case, 30 Eliz.	_____	5	2d Part. 52
Paget's Case, 36 Eliz.	_____	5	2d Part. 76
Pain's Case, 29 Eliz.	_____	8	34
Palmer's Case, 3 Jac.	_____	5	2d Part. 126
Palmer's and Thorp's Case, 25 Eliz.	_____	4	20
Pardons and Cafes thence, 29 Eliz.	_____	6	13
Peacock's Case, 9 Jac.	_____	9	70
Penal Statutes and Cafe thence, 2 Jac.	_____	7	35
Penant's Case, 38 Eliz.	_____	3	64
Penitather's and Clark's Case, 26 Eliz.	_____	4	23
Penryn's Case, 38 Eliz.	_____	5	2d Part. 85
Penrudduck's Case, 40 Eliz.	_____	5	2d Part. 100
Petifer's Case, 45 Eliz.	_____	5	2d Part. 32
Peyto's Case, 9 Jac.	_____	9	78
Philips and Badby's Case, 24 Eliz.	_____	4	19
Piggot's Case, 40 Eliz.	_____	5	2d Part. 29
Piggot's Case, 12 Jac.	_____	11	26
Pilkington's Case, 43 Eliz.	_____	5	2d Part. 76
Pinchon's Case, 9 Jac.	_____	9	87
Playter's Case, 26 Eliz.	_____	5	2d Part. 34
Podger's Case, 10 Jac.	_____	9	104
Porteman's Case, 30 Eliz.	_____	4	23
Porter's Case, 34 Eliz.	_____	1	16
Portington and Roger's Case, 11 Jac.	_____	10	35

*The General Table.*

<b>The Poulterers Case,</b> 8 Jac. _____	9	55
<b>Poulter's Case,</b> 12 Jac. _____	11	29
<b>Priddle and Napper's Case,</b> 10 Jac. _____	11	8
<b>Prince's Case,</b> 42 Eliz. _____	5 2d Part.	29
<b>Prince Henry's Case,</b> 3 Jac. _____	8	1
<b>Pryman's Case,</b> 41 Eliz. _____	5 2d Part.	84
<b>Pynnel's Case,</b> 44 Eliz. _____	5 2d Part.	117

**Q.**

<b>Q</b> <i>Uare Impedit,</i> and Case thence, 31 Eliz.	7	25
<b>Queinton and Keir's Case,</b> 31 Eliz.	4	25
<b>Quick's Case,</b> 9 Jac. _____	9	129

**R.**

<b>R</b> <i>Arcliff's Case,</i> 34 Eliz. _____	3	37
<b>Rawlin's Case,</b> 30 Eliz. _____	4	52
<b>Read's Case,</b> 2 Jac. _____	5 2d Part.	33
<b>Read's Case,</b> 42 Eliz. _____	6	24
<b>Read and Redman's Case,</b> 10 Jac. _____	10	134
<b>Rector of Cheddington's Case,</b> 39 Eliz.	1	148
<b>Ridgway's Case,</b> 36 Eliz. _____	3	52
<b>River's Case,</b> 24 Eliz. _____	4	22
<b>Robberies and Cafes thence,</b> 27 Eliz.	7	6
<b>Robinson's Case,</b> 1 Jac. _____	5 2d Part.	32
<b>Rogers and Portington's Case,</b> 11 Jac. _____	10	35
<b>Rook's Case,</b> 40 Eliz. _____	5 2d Part.	99
<b>Rosewel's Case,</b> 35 Eliz. _____	5 2d Part.	19
<b>Ross's Case,</b> 42 Eliz. _____	5 2d Part.	13
<b>Rouse and Arthur's Case,</b> 29 Eliz.	4	24
<b>Rowland's Case,</b> 36 Eliz. _____	5 2d Part.	41
<b>Ruddock's Case,</b> 41 Eliz. _____	6	25
<b>Rutlech and James's Case,</b> 42 Eliz.	4	17
<b>Ruffel's Case,</b> 26 Eliz. _____	5 2d Part.	27

**S.**

<b>S</b> <i>Adlers,</i> and their Case, 30 Eliz.	4	54
<b>Saffine's Case,</b> 3 Jac. _____	5 2d Part.	123
<b>Saint John's Case,</b> 34 Eliz. _____	5 2d Part.	71
<b>Salmond and Bradshaw's Case,</b> 10 Jac. _____	9	60
<b>Samon's Case,</b> 36 Eliz. _____	5 2d Part.	77
<b>Sampson and Baten's Case,</b> 8 Jac. _____	9	53
<b>Sander's Case,</b> 41 Eliz. _____	5 2d Part.	12
<b>Savel's Case,</b> 12 Jac. _____	11	55
<b>Scroop's Case,</b> 10 Jac. _____	10	144
<b>Semain's Case,</b> 2 Jac. _____	5 2d Part.	91
<b>Sendil's Case,</b> 27 Eliz. _____	7	6
<b>Sewers and Cafes upon Com. of them,</b> 7 Jac.	10	138
<b>Serjeant of London's Case,</b> 8 Jac. _____	9	61
<b>Sharp's Case,</b> 42 Eliz. _____	6	26
<b>Shaw and Tompson's Case,</b> 37 Eliz.	4	30
<b>Shelley's Case,</b> 21 Eliz. _____	4 1	88

Ship-

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T H E  
**GENERAL TITLES,**  
 naturally rising out of the said Books of  
 Sir EDWARD COKE, Knight;

In which he that is ready, may more easily find any thing in them contained.

<p style="text-align: center;">A.</p> <p><b>A</b>batement of Writ.  <i>see Title Writ.</i></p> <p><b>A</b>bbot and Prior.</p> <p><b>A</b>beyance.</p> <p><b>A</b>bettors.</p> <p><b>A</b>bility; <i>see Capacity.</i></p> <p><b>A</b>bjuration.</p> <p><b>A</b>bridgment.</p> <p><b>A</b>bsence; <i>see Pre-      sence.</i></p> <p><b>A</b>ceptance.</p> <p><b>A</b>ction upon the Case.</p> <p><b>A</b>ction upon the Sta-      tute.</p> <p><b>A</b>ctions popular.</p> <p><b>A</b>ccount.</p> <p><b>A</b>ccord.</p> <p><b>A</b>ccusation.</p> <p><b>A</b>cquittance.</p> <p><b>A</b>d quod damnus.</p> <p><b>A</b>dition.</p> <p><b>A</b>djourment.</p> <p><b>A</b>dmeasurement.</p> <p><b>A</b>dmiral.</p> <p><b>A</b>dministration.</p> <p><b>A</b>dmission.</p>	<p><b>A</b>ffray.</p> <p><b>A</b>gent and Patient.</p> <p><b>A</b>greement and, &amp;c.</p> <p><b>A</b>id.</p> <p><b>A</b>id of the King.</p> <p><b>A</b>id to make his Son      Knight, &amp;c.</p> <p><b>A</b>lien born.</p> <p><b>A</b>ile and besaile.</p> <p><b>A</b>lienation without,      &amp;c.</p> <p><b>A</b>mendment.</p> <p><b>A</b>mercement.</p> <p><b>A</b>nnuity.</p> <p><b>A</b>nswering.</p> <p><b>A</b>ppeals.</p> <p><b>A</b>ppearance.</p> <p><b>A</b>ppendant.</p> <p><b>A</b>pportionment.</p> <p><b>A</b>ppropriation.</p> <p><b>A</b>pprovement.</p> <p><b>A</b>pprovor.</p> <p><b>A</b>rbitrement.</p> <p><b>A</b>rraignment.</p> <p><b>A</b>rrests.</p> <p><b>A</b>rrearages.</p> <p><b>A</b>rts and Artizans.</p> <p><b>A</b>ssets.</p>	<p><b>A</b>ssignee.</p> <p><b>A</b>ssent and Consent.</p> <p><b>A</b>ssize.</p> <p><b>A</b>ssurance.</p> <p><b>A</b>ttachment.</p> <p><b>A</b>ttachment upon      Prohibition.</p> <p><b>A</b>ttainder.</p> <p><b>A</b>ttendance.</p> <p><b>A</b>ttournement.</p> <p><b>A</b>ttorney and Guar-      dian.</p> <p><b>A</b>ntient Demean.</p> <p><b>A</b>udita Querela.</p> <p><b>A</b>uditors.</p> <p><b>A</b>verments.</p> <p><b>A</b>vowry.</p> <p><b>A</b>vowson.</p> <p><b>A</b>uthority.</p> <p style="text-align: center;">B.</p> <p><b>B</b>aily.</p> <p><b>B</b>ankrupts.</p> <p><b>B</b>anks.</p> <p><b>B</b>argain, &amp;c.</p> <p><b>B</b>argain and Sale.</p> <p><b>B</b>aron and Feme.</p> <p style="text-align: right;"><b>Bar.</b></p>
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# A GENERAL TABLE

OF THE  
First *Eleven* BOOKS

OF THE  
REPORTS  
OF THE

Late most Reverend JUDGE

Sir EDWARD COKE.

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*Abbot and Prior.*

**W**HERE the Abbot and Prior may have their Right distinct, and severall from the Possessions of the Abby of the same House. Book 3. Leaf 75 & 76. See *Corporation.*

Where the Prior or Covent may have, and maintain an Action without, or against the Abbot. See *Corporation.*

Where the Corporation of Abbot, or Prior and Covent remaineth, notwithstanding they have no Lands or

Possessions, or alien their whole Lands. b. 3. 75, 76.

Where an Abbot or Prior may prejudice his House or Successor by his own Act, without the Convent, by Matter below, or not. b. 3. 65. b. 10. 60. 67. b. 7. 10 & 11.

Where a Lease, Grant, or, &c. by an Abbot or Prior, without the Convent shall bind the Successor, by Acceptance of Rent reserved, or &c. or not. b. 3. 65. See Title *Acceptance, Corporation, and Person.*

Where the Successor of an Abbot or Prior shall have the Obligations or other Chattels or Things due to the Predecessor or no. b. 4. 65. See Tit. *Executors, and Heir, and Chattels*  
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*Arbitrement.*

*Arbitrement.*

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*Averment.*

*Averment.*

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Baily.

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*Bargain, and Sale of Lands. Barretor. Baron and Feme, Husband and Wife.*

*Bargain, and Sale of Lands.*

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Where Confirmation to the Husband and Wife shall give an Estate to him, or her, who had nothing before, or not. See Tit. *Confirmation*.

Where and what shall be Discontinuance by the Husband of the Wife's Lands, or *&c.* or not. See Tit. *Discontinuance*.

Where the Wife shall be barred of Dower, by the Fine levied by her and her Husband, or by Recovery against them, or not. See Tit. *Dower*, or *Falsifying*.

Where Assignment of Dower to the Wife, by the Husband alone, shall bind his Wife. See Tit. *Dower*.

Where and what Averment the Wife shall have against a Fine levied by her and her Husband, what not. See Tit. *Averments*.

Where the Wife and her Heirs shall be estopped by Act done by her and her Husband during the Coverture, or not. See Tit. *Estoppel*.

Where the Enrollment of a Deed indented by a Woman-Covert shall be void, and contrary. See Tit. *Enrollment*.

Where upon a Fine to the Husband and Wife, or by them the Wife shall be examined. See Tit. *Examination*.

Where a Woman shall be fined to the King. See Tit. *Fine to the King*, and *Imprisonment*.

Where a Fine upon Conusance *De droit com ceo*, &c. or upon Grant, or Render, and Release, shall be accepted by the Husband and Wife, and bind them and their Heirs for ever, or not. See Tit. *Fines of Lands*, and *Averments*, and *Examination*.

Where Partition by Husband and Wife, or the Husband alone shall bind the Wife after the Death of her Husband, or not. See Tit. *Partition*.

Where a Woman shall be bound by her Acceptance of Rent, or *&c.* and shall not avoid the Estate in Land, which otherwise she might. See Tit. *Acceptance*.

Where a Woman may disagree to a Jointure made by her Husband, and *&c.* be endowed of the third Part, or not. See Tit. *Agreement*, and *Dower*.

Where a Woman may disagree to her Dower assigned, and be a-new endowed, or not. See Tit. *Dower*.

Baron, and Baroness, and Barony.

Description of an Earl, *&c.* b. 7. 34. b. 9. 49. a Name of Dignity, *&c.* where the Writ shall abate for Omision of it, not named Baron, or Baroness, or *&c.* See Tit. *Writ*, and *Name*.

Where the Name, or Dignity of a Frenchman, or Scot, or *&c.* shall be lost and gone if they come into *England*, or not. See Tit. *Name*, and *Ireland*.

Where Barons of *Scotland* or *Ireland* may be summoned to come to the Parliament held in *England*, or not. See Tit. *Ireland*, and *Scotland*.

Where *Capias*, or *Exigent* shall be awarded against a Baron, Earl, *&c.* or not. See Tit. *Exigent*, and *Execution*.

Every Barony held by Grand Serjeanty, not to be granted for Years. b. 9. 97. See Tit. *Grand Serjeanty*.

When the Names of Duke, Marquis, or Vicount began. b. 7. 34. b. 9. 49. 97.

The antient Revenue of a Baron, Earl, or Duke. b. 9. 124.

Where

Where a Baron and Peer of Parliament shall have Trial by his Peers in Cafes of Felony, or Treason, or not. See Tit. *Crown*, and *Trial*.

Amercement of an Earl, or Baron, of what Value it shall be, and how assayed. See Tit. *Amercement*, and *Statutes. Mag. Char. c. 14.*

Where a Baron and Peer of the Realm shall have Privilege to be exempt of Juries, and empanel'd upon Enquests. See Tit. *Fuors*, and *Exemption*.

Where Day of Grace shall be given to a Peer of the Realm. See Tit. *Day*.

Trial and Issue Baron, or not. Baron, and how it shall be tried. See Tit. *Trial*.

How many Chaplains of the Church an Earl, Baron, or &c. may have and retain. See Tit. *Dispensations*, and *Statutes*, 21 H. 8. c. 13. there.

A Barony, &c. may be intailed, and within the Statute W. 2. c. 1. of Gifts conditional. See Tit. *Statutes*, W. 2. c. 1. there.

Where the King shall have primer Seisin of Lands held of an Honour, or &c. or not. See Tit. *Tenure*, and *Privilege*.

## Bar.

Bar good at first Sight, and where, if good by common Intendment, it shall be good and sufficient enough, and what shall be common Intendment, and what not. b. 3. 1, 2. b. 5. 2 p. 121. b. 8. 57. b. 10. 59.

Bar by Acceptance. See Tit. *Acceptance*.

Where a Man ought to alledge a Place and Country, or &c. in his Plea in Bar to the Action. See Tit. *Pleadings*.

Where a Man may take two Traverses in his Bar. See Tit. *Traverse*, and *Traversable*.

Bar to avoid Circuitry of Action, and what Plea shall be allowed for this Cause, where, and what not. See Tit. *Circuitry of Action*.

Bar good, because of a By-law, and where. See Tit. *By-laws*.

What Pleas in Bar the Disseisor shall have, what not. See Tit. *Disseisor*.

Where he that is not Tenant of the Frank-tenement at the Time of Pleading, shall plead to the Writ, or in Bar. See Tit. *Pleas*.

Where Partition shall be a Bar in Action brought by one Coparcener against another. See Tit. *Partition*.

Where a Man shall plead a Deed of Feoffment, Grant, or &c. by Name within the Deed, though in Truth he be otherwise named in Bar, or &c. or not. See Tit. *Deeds*, *Misnaming*, and *Feoffment*.

Bar in Attachment upon Prohibition, and what shall be good, what not. See *Attachment upon Prohibition*.

Bar in Formedon in Descender, what shall be good, what not. See Tit. *Formedon*.

Bar in Action upon the Case. See Tit. *Action upon the Case*, and below.

Bar in Action of Account. See Tit. *Account*. b. 6. 7.

Bar in Writ of Annuity. See Tit. *Annuity*. b. 1. 112. b. 3. 65. b. 8. 145.

Bar in Appeals of &c. See Tit. *Appeals*.

Bar in Attaint, and what shall be good in the Mouth of the Party, &c. what in the Mouth of the Petty Jury. See Tit. *Attaint*.

Bar in *Audita querela*. See Tit. *Audita querela*.

Bar in Debt, upon Lease, for Rent due, and what shall be good, and what not. See Tit. *Debt*.

Bar in Debt brought by or against Executors, and what shall be good, and what not. See Tit. *Executors*.

Bar in Trespass of Assault and Battery. See Tit. *Trespass*.

Bar in Trespass, or false Imprisonment against a Sheriff, or other Officer. See Tit. *False Imprisonment*, and *Justification*.

Bar in Trespass and false Imprisonment, and where, and what shall be good, what not. See Tit. *Commandment*.

Bar in Actions upon Statutes, &c. See Tit. *Action upon Statutes*.

Bar in Cessavit. See Tit. *Cessavit*.

Bar in Writ of Covenant, and what shall be good, what not. See Tit. *Covenant*.

Bar in Writ of Dower, and what shall be good, and what not. b. 1. 112. b. 4. 1. b. 2. 74, 78, 93. b. 3. 27. b. 8. 150 to 155. See Tit. *Dower*.

Bar in Actions personal by Warranty, and where, and when, and in what. See *Warranty*, and *Assets*.

Bar in Detinue of Goods, or Charters. See Tit. *Detinue*.

Bar of Acquittal in a Writ of Mesne, and what shall be good. See Tit. *Mesne*.

Bar in Mortdancestor, and where it shall be good, without traversing the Dying seized. See *Mortdancestor*.

Bar in *Quare Impedit*, and &c. See Tit. *Quare Impedit*.

Bar in *Quid juris clamat*, to out the Plaintiff from Attornment for ever. See Tit. *Quid juris clamat*.

Bar in *Quod ei deforceat*. See Tit. *Quod ei deforceat*.

Bar in Replevy, or Avowry. See Tit. *Replevy*.

Bar in Writ of *Rescous*. See Tit. *Rescous*.

Bar in *Scire facias* to execute a Fine, or upon Recovery. See Tit. *Scire facias*.

Bar upon *Scire facias*, sued by the King upon Office found for him. See Tit. *Scire facias*.

Bar in Writ of Waste, and what shall be good, what not. b. 2. 92. b. 3. 23. b. 5. 2 p. 76, 119. b. 6. 43, 44. See Tit. *Waste*.

Bar in Writ of Error. See Tit. *Error*.

Bar in *Cui in vita*. See Tit. *Cui in vita*.

Bar in Writ of Right. See Tit. *Right*.

Bar in Writ of Ail, Besail, or Coufinage. See Tit. *Ail*, and *Besail*.

Bar in Writ of Ward. See Tit. *Ward*.

Bar by Acceptance. See Tit. *Acceptance*.

Bar by Acquittance, or Release. See Tit. *Acquittance*, and *Release*.

Bar by Accord. See Tit. *Accord*.

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Bar in Action, because of a By-law. See Tit. *By-laws*.

Bar by Recovery, or another Time barred in another Action, and where, and what Actions; where, and what not. b. 4. 5, 43, 94. b. 5. 2 p. 33, 85. b. 6. 7, 8, 40, 45, 46. b. 8. 72. See Tit. *Extinguishment*, and *Election*. b. 11. 65.

Bastardy.

Whence comes Bastard. b. 8. 102.

Where the Issue born before, and out of Espousals, shall be a Bastard by the Common Law, though he be *Mulier* by the Civil, or Church-Law. b. 5. 1 p. 11, 12. b. 6. 65. See Tit. *Statutes*, and *Mag. Chart. c. 9*. there.

Where the Issue shall be a Bastard, tho' born during the Espousals, because the Wife had another Husband alive, or the Husband another Wife, or not. b. 4. 29. b. 5. 2 p. 98. b. 7. 43.

Where the Issue shall become Bastard by a Divorce, tho' born in lawful Espousals, or not. b. 5. 2 p. 98. b. 6. 66. b. 7. 43, 44.

Where Bastardy shall be tried by Certificate of the Bishop, and where the Court shall write to the Bishop, or not. b. 5. 1 p. 11. b. 7. 43, 44.

Where the Bastard is not intended (a Child) within the Statute 32 H. 8. c. 1. concerning Wills, &c. b. 6. 77. b. 10. 83. See Tit. *Statutes*, and the Statute there.

Where Possession of the eldest Daughter which is a Bastard, and dying seized, shall make her Son Heir; altho' the younger Daughter occupied the Land with the elder in Coparcenery, or not. b. 8. 101.

Where Possession of the Bastard, and her dying seized, shall make her Son Heir, to the Prejudice of the Tenant in Tail, or them in Remainder, or not. b. 8. 101.

Where Possession of the Bastard, and her Dying seized, shall prejudice

dice the Infant who hath Right, and bind him, or not. b. 8. 101.

Where Possession of the Bastard, and Continuance of Possession of those who claim by him, and a Descent in them, shall prejudice and bind the right Heir, or not. b. 8. 101.

Where Possession and Seisin of the Bastard, of a Reversion, Rent, or Seignior, and his Dying seized, shall make his Son Heir, and what Possession shall be sufficient to a Dying seized, and what not. b. 8. 101.

Where Possession of the Bastard, and his Dying seized, shall prejudice the Lord of whom the Land is held in Escheat, or &c. or not. b. 8. 101. See Tit. *Escheat*.

Where Possession and Dying seized of a Bastard, must be without Entry, or Claim of the *Mulier* and right Heir, and what shall be sufficient Entry or Claim to avoid a Descent, or not. b. 8. 101. See Tit. *Continual Claim*.

Where Bastardy shall be alledged in a Man after his Death, and of what Force and Effect it shall be, and of what not. b. 8. 101.

Where a Bastard is not capable of a spiritual Promotion, but the Bishop may refuse him, upon presenting of him to a Church. b. 5. 1 p. 28. 2 p. 58. See Tit. *Quare Impedit*, and *Presentment to a Church*.

Where Action shall be maintained for calling one Bastard, or not. b. 4. 17. See Tit. *Action upon the Case*.

Where a Bastard, by Reputation of a Son, may take an Estate in Lands, or &c. or not. b. 6. 65, 67. See Tit. *Reputation*, and *Remainder*.

Where the Dispensation of a Bishop to a Bastard to be Priest, shall be good, or not. b. 5. 28. See Tit. *Dispensation*.

Where the Certificate of a Bishop, of Bastardy, or Mulierry shall estop the Parties or Strangers. b. 7. 43. See Tit. *Certificate of the Bishop*.

Where Age shall be granted to the Bastard who claims as Heir. See Tit.

*Age*.

Where a Bastard shall vouch as Heir, or shall be vouched as Heir, and how. See Tit. *Voucher*, and *Counterplea of Voucher*.

*Batail*.

How Batail shall be waged, and made in a Writ of Right, and the Order of it. b. 9. 31.

Trial by Batail in Appeals, and the Order and Manner of it, and before what Persons it shall be performed. b. 9. 31, 119.

*By laws*.

Bar in Trespass, or &c. by Reason of a By-law, or Ordinance, made amongst Tenants, Commoners, or Parishioners, and what shall be good, what not. b. 5. 2 p. 63, 64, 67, 68. b. 8. 122, 123, 125 to 130.

Who shall be bound by By-laws, who not. b. 5. 2 p. 63.

Where Debt lies upon Breach of a By-law, for the Penalty assesse, or not. b. 8. 123. See Tit. *Debt*, and *Penalty*.

Where a By-law made by the greater Part of the Tenants, or &c. shall bind the others, and which, and which not. b. 5. 2 p. 62, 63. See Tit. *Customs*.

Made by the Common Council of the City of London, or &c. which shall be good, which not. b. 5. 2 p. 63. b. 8. 123, 125. See *London*, and *Customs*.

Concerning the using of Common, and which good, which not. b. 5. 2 p. 63.

Concerning Repair of a Church, by the Parishioners, and their Contribution to it, and which good, which not. b. 5. 2 p. 63, 65 to 68.

Where a By-law of Imprisonment of the Body of a Man for a Thing misdome, or &c. is not good. b. 5. 2 p. 64.

Where the Court shall write to another Person than the Bishop as Ordinary. See Tit. *Ordinary*.

Bill.

In which Courts Suit shall be by Bill, and not by Original, and in what by Original, and not by Bill. b. 10. 73. b. 6. 19.

Against a Sheriff upon the Statute 23 of H. 6. c. 10. in what Court to be sued, in what not. b. 6. 19.

What Actions to be sued by Bill, what not. b. 6. 19. b. 10. 73.

Bill in the Court of Exchequer, in Nature of a *Quo minus*, &c. for the King's Debtor, in Account to the King, where, and for whom. See Tit. *Quo minus*.

Bill of Exception of Error upon it, and the Order of prosecuting it. See Tit. *Error*.

Against a Sheriff, or Gaoler, upon Escape. See Tit. *Debt, Escape, and Authority*.

. . . Bishop. See *Ordinary*.

Where the Writ shall be awarded to Bishop in Cases, or not. See Tit. *Writ to the Bishop*.

Certificate of the Bishop in Cases, in which good, which not. See Tit. *Certificate of the Bishop*.

Trial by the Bishop, which Issues shall be tried by him, which not. See Tit. *Trial*.

Where the Bishop's Certificate stops the Partics, where Strangers. See Tit. *Certificate of the Bishop*.

Where the Writ of the Bishop shall be directed to the Bishop of the Diocese, where to the Metropolitan, &c. See Tit. *Writ to the Bishop*.

Where and what is Contempt in the Bishop to cause his Temporalties to be seized into the King's Hands. See Tit. *Contempt*, and *Quare non admittit*.

Before what Bishop as Ordinary Testaments shall be proved, before what not. See Tit. *Testament*.

Where the Bishop ought to give Notice to the Patron, before he can collate to the Church, or not. See Tit. *Notice*.

Where Collation of the Bishop puts not the Patron out of Possession. See Tit. *Quare impedit*, and *Presentation to a Church*.

What Pleas in *Quare Impedit* the Bishop, who claims as Ordinary, shall have, what not. See Tit. *Q. Impedit*.

What Persons are incapable of Ecclesiastical Promotion, not to be presented to a Church; and if presented, may be refused by the Bishop. See Tit. *Encumbent*, and *Infant*.

An immediate Officer, and Minister to the King's Courts. b. 5. 11, 15, 23, 26. See Tit. *Writ to the Bishop, Ordinary, Clergy, Process, Excommunication*.

*Burglary*. See *Crown*.

*Burning*.

Where Action of the Case lies for Burning an House. See Tit. *Action upon the Case*.

Where he that hath his Clergy shall be burnt in the Hand. See Tit. *Clergy*.

Where it is Felony to burn Houses. See Tit. *Crown*.

Burning the Hand of a Felon pardoned by the King. See Tit. *Clergy*.

Where he that burns an House shall not have his Clergy. See Tit. *Clergy*.

C.

*Capacity*.

OF Persons not in Being, nor known at the Time of the Estate limited and given, or not named by their proper Names, &c. where, how, and when they shall take Estates in Lands, &c. or not. B. 1. 100 to 105, 130, 134, 136. b. 2. 51. b. 6. 17. b. 7. 8, 9. b. 10. 27, 28, 31, 32, 57.

Of right Heirs, right Heirs of the Body, an Infant in the Mother's Belly, or such like, without a proper Name, and where, how, and when they

they shall take Estates in Lands, &c. or not. B. 1. 66, 67, 95, 98, 100 to 105, 126, 130, 134, 135. b. 2. 51, 91, 92. b. 3. 20, 61, 83. b. 5. 2 p. 8. b. 6. 17, 18. b. 7. 9. b. 10. 50, 51. See Tit. *Remainder*, and *Infant*.

Of the Wife that shall be, where she shall take an Estate by such Name, and how, and when, or not. B. 1. 101, 120, 130, 134, 136.

Where the King's Grant to one incapable at the Time of the Grant, shall be good, and the Grant implicitly make him capable, or not. B. 1. 46, 52. b. 3. 73. b. 5. 2 p. 56. b. 7. 14. b. 8. 56, 167. b. 10. 27, 67. See Tit. *Grants of the King*, *Denizen*, and *Villein*.

Capacity of the King double, natural, and politick, and where he shall take an Estate in Lands, &c. in the one, where in the other. B. 6. 27. b. 7. 10, 12, 32. See Tit. *King*.

Capacity of an Alien born to have Land by Descent, to purchase Lands, or gain Goods. See Tit. *Alien born*.

Capacity of the Queen without the King, and to what Purposes she shall be accounted as a Woman sole. See Tit. *Prerogative*.

Capacity of a Woman Covert, and where she may take an Estate in Lands, of the Gift, or Devise of her Husband, or a Stranger, or not. See Tit. *Baron and Feme*, and *Agreement*, and *Assent*.

Capacity of Monks, or the Subprior, and where they shall take an Estate in Lands, or &c. or have Property in Goods, and sue Actions without their Sovereign, or not. See Tit. *Abbot*, and *Prior*.

Capacity of an Heir, notwithstanding the Attainder of his Father, Brother, or other Ancestor; and where it notwithstanding they shall have Lands by Descent, or not. See Tit. *Attainder*, *Corruption of Blood*, and *Descent*.

Where the King's Grant to a Body not incorporate, or Person incapable, shall be good, and make a Capacity, or not. See Tit. *Grant of the King*.

Where Disseisin, or Usurpation to a Church, by a Bishop, Parson, &c. who hath two Capacities, shall mortmain, or not. See Tit. *Mortmain*.

Capacity of an Infant to take an Ecclesiastical Promotion, and where, and at what Age, or not. See Tit. *Infant*.

Capacity of a Bastard, and where he shall have an Estate in Land, or &c. by Purchase, by Name of Son, by Reputation. See Tit. *Bastard*, and *Reputation*.

Where the Issue of a Bastard shall be of Capacity to have and retain Land by Descent, or not. See Tit. *Bastard*.

Who are not capable of Ecclesiastical Benefices, but may be refused by the Bishop. See Tit. *Encumbent*, *Infant*, *Presentation to a Church*, *Quare Impedit*.

Capacity of Clerk convict. See Tit. *Attainder*, and *Clergy*. B. 5. 2 p. 110.

Capacity of Corporations. See Tit. *Corporations*.

*Capias. See Exigent.*

*Castles.*

Where and how Land, Rent, or other Inheritance may be Parcel, or appendant to a Town, Castle, Honour, or &c. See Tit. *Appendant*.

Where Commissions shall be awarded to inquire of the Decay of Castles, or &c. See Tit. *Commissions*.

Of Tenure by Castle-ward. See Tit. *Escuage*, *Tenure*, *Ward*, *Extinguishment*.

Where the King shall have primer Seisin of Lands held of him, as of an Honour, Castle, &c. or not. See Tit. *Tenure*. and *Prerogative*.

Where Tenure and Service by Castle-ward shall be discharged for a Time, and after revive, or not. See Tit. *Extinguishment*.

*Causa*

*Causa Matrimonii prelocuti.*

Where, for whom, and in what Case this Action lies; for whom, and in what Case not. B. 2. 75. b. 10. 50.

Where a Woman shall have Averment, that the Land was given, because of Matrimony before spoken of, notwithstanding the Deed imports another Consideration, or not. See Tit. *Averments*.

*Certificatēs.*

Certificate of Affize, and where it lies. B. 6. 8. b. 8. 65, 66. See Tit. *Verdicts*, and *Statutes. Westm. 2. c. 25.* there. b. 4. 4.

Certificate of the Bishop upon never coupled in lawful Matrimony, and what shall be good, and by whom, &c. what not. B. 5. 9, 11. b. 9. 19. 31.

Certificate of the Bishops of Bastardy, where the Writ shall be awarded to try Bastardy, and what Certificate shall be good. See Tit. *Bastardy*

Where the Certificate of the Bishop, of Bastardy, and Mulierty shall estop the Parties or Strangers, and no Traverse to it, or not. B. 7. 14, 43, 44.

Of the Bishop, of Excommunication, and what shall be good, what not. See Tit. *Excommunication*.

Of the Bishop upon Issue, whether the Church be full, or not. See Tit. *Trial*.

Of the Bishop upon Issue joined, upon Admission and Institution. See Tit. *Trial*, and *Writ to the Bishop*.

Where Certificate of the Commissioners upon the Statute of Bankrupts shall estop the Parties. See Tit. *Bankrupts*, *False Imprisonment*, and *Estoppel*.

Of a Bishop, of Profession, Depriation, or Resignation upon Issues joined upon them. See Tit. *Depriation*, and *Trial*.

Certificate of a Statute, or Recognition, and how, and what shall be good. B. 7. 38. See Tit. *Recognition*.

Certificate of Records, and where it shall be by the Hands of the Justices, or of another Man without other Process, or not. See Tit. *Records*.

Where the whole Record, as the Original, and Process, &c. must be certified, and removed, and the Cause why. See Tit. *Records*.

Where the Record it self needs to be certified, or not; but the Tenor of the Record shall suffice. See Tit. *Records*.

Certificate of the Captain of an Army, where it shall be, it shall estop no Traverse to it. B. 7. 14. See Tit. *Utlawry*.

*Cessavit.*

Form of the Writ, and what Matter shall suffice to abate it, what not. B. 8. 118.

Count in Cessavit, and where the Count shall abate the Writ, and what Count shall be good, what not. B. 4. 11. b. 5. 2 p. 8. b. 8. 118. See Tit. *Esplees*.

Bar in Cessavit, and what shall be good, what not. B. 2. 93. b. 5. 2 p. 8. b. 8. 118.

Where the Cessing of the Husband and Wife, during the Coverture, shall bind the Wife after the Death of her Husband, or not. B. 8. 44. b. 9. 72. See Tit. *Baron and Feme*.

Where Cessavit lies against an Infant during his Nonage. B. 6. 3, 4. b. 8. 44. b. 9. 85. See Tit. *Age*.

For Cessing of what Services it lies, for what not. B. 5. 2 p. 8. See Tit. *Homage*.

Cessavit of a Chantry where it lies. B. 4. 108. b. 8. 118.

Where Cessavit lies not, yet a Cessing for two Years incurred. B. 2. 93. b. 8. 118.

Where a Man may have one Cessavit upon several Tenures, or not. B. 8. 86. See Tit. *Writ*, and *Joining in Action*.

Aunt and Niece join in Cessavit, where maintainable, or not. B. 8. 118.

Where

*Challenge. Champerty. Chapel, and Chaplains: Charge, and Discharge.*

Where Incroachment of Rent shall be avoided in Cessavit, and how. B. 4. 11. b. 5. 2 p. 100. See Tit. *Encroachment*, and *Seisin*.

What Issue shall be taken in Cessavit, where Seisin of Services is not traversable, but the Tenure. B. 4. 11. b. 9. 34.

Verdict in Cessavit, and what shall be good, what not. B. 8. 66. See Tit. *Verdict*.

Tender of Arrears in Cessavit, and when, and by whom, and to whom; and what Tender shall be good. See Tit. *Arrearages*, and *Tender*, and *Refusal*.

Where Age shall be granted in Cessavit, and the Plea demur for Nonage of the Plaintiff, or Defendant. See Tit. *Age*.

Where the Custom that if the Tenant ceas for two Years, the Lord may enter, is not allowable. See Tit. *Custom*.

*Challenge.*

Challenge to the Array, or a Juror, because he was at another Time Arbitrator in the Matter. B. 9. 71.

Where no Challenge, because he was at another Time a Commissioner to examine Witnesses in the Matter. B. 9. 71.

To a Juror, because he was an Alien born. B. 7. 18. b. 10. 104.

To the Array, because Knights are not returned in the Panel, and where not. B. 6. 53.

Where Challenge shall be to the Knights in a Writ of Right who make the Panel, or to the Jurors, or not. B. 9. 32. See Tit. *Right*.

To the Array for an Alien born, because the Half was not of Aliens. See Tit. *Alien born*.

Where the Challenge shall be by a Juror, because he is a Baron, or Peer of the Realm. See Tit. *Furors*, and *Exemption*.

Of Trial of Challenge to Jurors, and how they shall be tried. See Tit. *Furors*.

*Champerty.*

Where the Writ of Champerty enforces the Nature of the first Action, and in what Points. B. 6. 25.

*Chapel, and Chaplains.*

How many Chaplains a Peer of the Realm, or other Persons may have and retain. See Tit. *Dispensation*, and *Statutes*, and there 21 H. 8. c. 13.

*Charge, and Discharge.*

Where a Grant of Rent, or *&c.* shall be sufficient to charge a Manor, Land, or *&c.* in Present, and by what Words, where, and by whom not. B. 4. 53. b. 6. 39. b. 7. 23, 24. b. 8. 155.

Where a Rent, or *&c.* granted out of a Reversion, shall be sufficient to charge the Reversion, and when it shall begin, or not. B. 1. 62, 128. b. 2. 52. b. 4. 48, 52. b. 5. 2 p. 3, 4. b. 11. 48. See Tit. *Grants*, *Leases*, and *Remainder*.

Where a Joint Grant of Rent, or *&c.* out of land, by the Premises of a Deed shall be severed by the Words of the *Percipiendum*, and Part of the Land discharged by the Words subsequent, or not. B. 1. 84. b. 5. 2 p. 7, 8. b. 10. 106, 107.

Where a Charge of Rent, Estate in Lands, or Service to be done, *&c.* shall be avoided, and cease for a certain Time, and after be good, and stand, and contrary. B. 4. 88. b. 6. 40. b. 7. 7, 8. b. 8. 17. See Tit. *Condition*, and *Extinguishment*.

Where the Master, or Lord shall be charged, and answer for the Offence and Act of his Servant, or Deputy, or not. B. 4. 53. b. 5. 2 p. 89. b. 9. 48, 98.

Where a Grant of a Rent-charge by Tenant for Life shall stand against him in Reversion, who enters for Forfeiture, or accepts a Surrender. B. 1. 67.



Where and what Things may be charged with Rent, by Grant, or Reservation, what not. B. 4. 53. b. 5. 2 p. 3, 4. b. 7. 23. See Tit. *Grants, and Reservations.*

Where a Grant of Rent, or &c. out of Land to begin in the future, shall be good, and charge the Land, or not. B. 1. 154, 155. b. 2. 55. b. 7. 38. b. 8. 74, 75, 95. See Tit. *Grants.*

Where a Charge of Rent, or Annuity, &c. imposed upon the Church, by the Patron and Ordinary in Time of the Vacation, shall charge the Parson after, or not. B. 1. 147. b. 5. 2 p. 81. See Tit. *Grant, and Parson.*

Where the Join-tenant that survives, shall hold Discharges of Rent granted by his Companion, or of an Execution upon Judgment, or not. b. 6. 78, 79. See Tit. *Joint-tenants.*

Where the Grantor of a Rent shall be charged by a Writ of Annuity, or Distress and Avowry at the Election of the Grantee, or not. See Tit. *Annuity, and Election.*

Where the Heir shall be charged by the Grant of an Annuity by his Father, or not. See Tit. *Annuity, and Assets.*

Where a Man shall be charged as Heir in Debt, for the Debt of his Father, and who shall be charged as Heir, and what Lands. See Tit. *Heir, and Assets, Execution, Contribution, Debt.*

Where the Land of one Voucher shall be charged with the intire Execution, upon Recovery in Value, where one Lord, or Heir is vouched in the Word of several Persons, or not. See Tit. *Recovery in Value, and Contribution.*

Where the Obligor, or Reconfor who survives, shall be charged with the whole Debt, and his Lands alone put in Execution, or not. See Tit. *Audita Quevela, Execution, Joint-tenant, Recovery in Value, and Voucher.*

How Sheriffs, or other Officers shall be charged, or discharged of their Offices, and when they shall be said discharged. See Tit. *Officers, and Offices, and Coroners.*

Where a Man shall be discharged

to do a Thing, &c. by Change and Alteration of the principal Thing, to which, &c. or not. See Tit. *Extinguishment, and Prescription.*

Where the Husband shall be charged for Debt, or &c. made by the Wife before, or during the Coverture, or not. See Tit. *Baron and Feme.*

Where the Wife shall be charged for Things done by her Husband, after the Death of the Husband. See Tit. *Baron and Feme.*

Where a Condition upon an Obligation, Feoffment, or &c. shall be discharged in the whole, or Part by Act of God, or the Parties. See Tit. *Condition.*

Where the Heir shall be charged by the Covenant made by his Ancestor. See Tit. *Covenant.*

Where a Sheriff, or Gaoler shall be charged with the Escape of a Prisoner for Debt, or Felony, or not. See Tit. *Authority, and Escape.*

Where a Contract shall be discharged, and determined by accepting an Obligation for it. See Tit. *Contract, and Extinguishment.*

Where a Woman shall hold the Dower assigned her, charged, or not. See Tit. *Dower.*

Where Executors shall be charged of their Goods proper, or not. See Tit. *Executors.*

Where the Mainprise is, the Mainperners shall be discharged, and by what Act. See Tit. *Mainprise.*

Where a Man shall be discharged of Waste by repairing after. See Tit. *Waste.*

Where a Charge, or other Thing by the Disseisor shall bind the Disseisee, and he be charged by them, where not. See Tit. *Disseisin.*

Where the Master shall be charged for Hurt done by his Dog. See Tit. *Action of the Case.*

Where a Man may discharge Matter in Writing, or of Record, by naked Surmise, or Matter in Deed, without shewing a Writing, or not. See Tit. *Debt, and Monfrance of Deeds.*

Where a Man shall be discharged to pay Tithes, and by what Means. See Tit. *Tithes.*

Where

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Where he that enters for a Condition in Deed, or in Law broken, shall hold discharged of all Charges and Incumbrances made before, or not. See Tit. *Conditions*, and *Escheats*.

Where and what Patents and Commissions of the King are determined and discharged by his Death. See Tit. *Grant of the King*, and *Commissions*.

Where the Lord by Escheat shall hold subject to the Charge imposed upon the Land by his Tenant before, or not. See Tit. *Escheat*.

Where an Enquest shall be discharged, and for what Causes. See Tit. *Enquests*.

Where Auditors upon Account shall be discharged. See Tit. *Account*.

Where Arbitrators may be discharged, or not. See Tit. *Arbitrators*.

Where the Heir shall be discharged of the Forfeiture of the Value of his Marriage, by the knighting him, or not. See Tit. *Ward*, and *Tender*.

Where a Man in Execution shall be discharged of it, and by what Acts, or Means. See Tit. *Execution*.

Where a Man may charge Land with Rent common, or *&c.* for a longer Time than he hath in the Land, or not. See Tit. *Estates*, *Grants*, and *Extinguishment*.

*Charter of the King.*

Where the Charter of the King is against a Statute, or to do a Thing prohibited by Statute, shall it be good, and where the Clause of *Non obstante* will be needed, *&c.* in the Grant, or not. B. 4. 35. b. 7. 14, 36, 37. b. 8. 14, 29. b. 11. 86 to 88.

Where the King's Charter, or Grant shall be void, because he hath not Power to grant, and what Things he cannot grant. B. 4. 33, 34, 35. b. 5. 2 p. 50. b. 7. 7, 25, 36, 37. b. 8. 16, 17, 19, 22, 55, 77, 125. b. 10. 113. b. 11. 4, 53, 54, 89, 90. See Tit. *Grant of the King*.

Where the King's Charter of Pardon of all Debts shall extend to every Debt, or not, and what Debts

shall by it be pardoned, what not. B. 1. 50. b. 5. 2 p. 56. See Tit. *Grant of the King*.

Where a Release, or Pardon of the King, of all Debts, Suits and Demands, shall be good, or not, and what shall be discharged by it, what not. B. 5. 2 p. 56.

Where a Charter of Pardon, or *&c.* made to the Principal in Felony, or *&c.* shall discharge the Accessory and his Sureties, or not. B. 4. 43.

Charter of Pardon of Robbery, and what Words are requisite and sufficient, what not. B. 6. 13.

Of Pardon to a Man attainted by Judgment, by what Words sufficient, by what not. B. 6. 13.

Charter of Pardon of all Felonies and Trespasses shall be good for Treason, for what Treason, and for what not. B. 6. 13.

Of Pardon of Murder, or the Death of a Man, what Charter good, by what Words, and what not. B. 6. 13.

Where and what Charter of Pardon ought to be pleaded by the Party himself, the Form to plead it, what not. B. 6. 79, 80. b. 8. 68. See Tit. *Notice*, and *Office of Court*.

Where a Charter of Pardon, shall not be granted, until the Lord Chancellor be ascertained that the Party at whose Suit, *&c.* be satisfied. B. 6. 80.

Where a Man shall continue in Prison, notwithstanding the Charter be allowed. B. 6. 80.

Where a *Scire facias* must be sued by him who hath a Charter of Pardon, and against whom, or not, but shall be allowed without a *Scire facias*. b. 6. 80.

To what Time the Charter of Pardon shall have Relation. See Tit. *Relation*.

Of Exemption, and what, and in what Cases shall be good. See Tit. *Exemption*.

Where a Charter of Pardon shall happen, yet the Party have no Benefit

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ness of it, because of Matter of After-Fact. B. 6. 80.

Of Pardon of Imprisonment, or Burning in the Hand of a Man convict, and condemned, where good, or not. B. 5. 2 p. 46, 47, 50, 110.

Of Exceptions in general Pardons of the King in Parliament, the Exposition of them. B. 5. 2 p. 46 to 50. b. 6. 13. 79, 80.

The King's general Pardon by Parliament, 13 Eliz. expounded. B. 6. 13.

General Pardon of the King, the 35 Eliz. expounded. B. 5. 2 p. 46, 47. twice.

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Where the King's Pardon shall bar the Party in an Action popular upon Statutes, or upon Suit in the Court of Star-Chamber, or not. B. 5. 2 p. 48, 50, 51. b. 11. 56, 57, 66. See Tit. *Actions popular.*

Certain Rules for Exposition of Charters of Pardon of the King, or of Grants of the King. See Tit. *Grant of the King.*

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*Charters.*

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Bar in Detinue of Charters, Accord is a good Bar in it. B. 9. 78. See Tit. *Accord.*

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What Charters and Writings of Lands shall be given in Evidence, what not. See Tit. *Evidence.*

*Chattels.*

Where and what Things are Chattels in their proper Natures, where, and what not; but become Chattels by Accident, or Matter of late Time. B. 2. 93. b. 4. 63. b. 5. 2 p. 96. b. 7. 17, 18, 23. b. 8. 171. b. 9. 96, 97. b. 11. 48, 50, 81, 84.

Where the Executors shall have the Chattels of the Testator, and which, where, and which not. B. 2. 93. b. 3. 12. b. 4. 63, 65. b. 5. 2 p. 96. b. 9. 97. b. 10. 51, 128, 129. b. 11. 92.

Where the Heir shall have them after the Death of his Father. B. 2. 93. b. 4. 63. b. 7. 17. b. 9. 128, 129.

Where a Chattel vested shall be after devested, and undone, or not. B. 1. 95, 96, 102, 137, 155. b. 3. 61, 62. b. 6. 74. b. 7. 8. b. 8. 142, 143. b. 9. 129. b. 10. 55, 56.

What Chattels or Things coming to the Husband by Intermarriage shall he have after the Death of his Wife. B. 4. 51. b. 5. 2 p. 18, 36. See Tit. *Baron and Feme.*

What Chattels and Things which accrue to the Husband by Marriage, or jointly to them during the Coverture, shall the Wife have after the Death of her Husband, and not his Executors. B. 10. 51. See Tit. *Baron and Feme.*

Where and what Chattels and Things the Wife shall have again after Divorce; where, and what not. See Tit. *Divorce.*

Where an Estate of Frank-tenement or Inheritance may be in Chattels, or in a Thing issuing out of a Chattel. B. 4. 66. b. 8. 95, 96. b. 10. 47, 52, 87.

Where a Remainder of a Chattel real, or personal shall be good, or not. B. 1. 153, 155. b. 8. 95, 96.

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Of Emblements, and what Person shall have them in Life-time, or after Death. See Tit. *Emblements*.

Where Use may be of a Chattel real, or personal. See Tit. *Uses*.

Where a Chattel may be of an Use of Lands, or an Use in Lands for Years. B. 1. 130, 134. See Tit. *Uses*, and *Statutes*, 27 H. 8. c. 10. there.

Where and when Goods and Chattels shall be liable to Execution, if by Judgment, or not. See Tit. *Execution*.

Where a Chattel real, Lease for Years may be put in Execution, and delivered to the Party as a Chattel, or may be sold by the Sheriff, and *&c.* See Tit. *Execution*.

Where and what Goods and Chattels the Successor of an Abbot, Prior, Master of an Hospital, or *&c.* shall have, what not, but the Executors. See Tit. *Abbot*, and *Corporation*.

Exposition of Goods and Chattels, and what Things shall be comprehended under them. See Tit. *Gift*, *Emblements*, *Forfeiture*.

Where a Man shall be adjudged in Possession of Goods, and Chattels, by Claim, or without; before Seizure, or not. See Tit. *Continual Claim*.

Where a Petition to the King may be, or a Traverse lie for Goods and Chattels, or not. See Tit. *Petition*, and *Traverse*.

Gifts of Goods and Chattels, and all Things concerning it. See Tit. *Gift*.

Devise of Goods and Chattels, and all Things concerning it. See Tit. *Devise*.

Customs which concern Goods and Chattels. See Tit. *Customs*, and *Prescriptions*.

*Chancery.*

Court of Chancery, and of what Things and Pleas this Court shall have Jurisdiction, of what not, and of other Matters concerning this Court. B. 1. 122, 139. b. 4. 35. b. 9. 99.

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Woman in Chancery. B. 9. 16, 17. See Tit. *Dower*.

Where an Office found before an Escheator by Virtue of Office, where by Virtue of Writ may be returned into the Chancery, or not. B. 1. 42. b. 4. 57. See Tit. *Office before*, &c.

Where Office found before the Escheator, or *&c.* may be traversed in the Chancery Court, or not. B. 4. 56. b. 9. 96, 98. See Tit. *Traverse*.

The Force and Virtue of a Decree in Chancery. B. 1. 122. b. 4. 25.

Where a Record out of the Chancery may be certified into the King's Bench by the Hands of the Lord Chancellor without Process. See Tit. *Records*.

Where Issue joined in Chancery shall be tried in the King's Bench, and how. See Tit. *Courts*.

The Process of the Court of Chancery, and in what Cases a Man may have Remedy there. See Tit. *Subpoena*.

*Circuity of Action.*

Where and what Matter shall bar in Debt upon an Obligation, or *&c.* to avoid Circuity of Action, where, and what not. B. 1. 113. b. 6. 13.

Where a Defeasance shall avail as a Condition, and be pleaded in Bar to avoid Circuity of Action. B. 2. 71, 74. See Tit. *Defeasance*.

Where and what Matter shall bar in Avowry to avoid Circuity of Action, where, and what not. B. 8. 60.

Where and what Matter shall be pleaded in Bar of Dower, to avoid Circuity of Action. See Tit. *Dower*.

Where a Grant of the King's shall be pleaded in Bar, and shall be good to avoid Circuity of Action of Covenant, which lies not against the King. See Tit. *Grant of the King*.

Where Resceit shall be granted to Lessee for Years Tenant by *Elegit*, Statute Merchant, upon defending, or faint Pleading of the Tenant of the Frank-Tenement, to avoid Circuity of Action. See Tit. *Resceit*.

Where a Man shall recoup to avoid Circuity of Action. See Tit. *Recouping*.

Where an Affize adjourned out of the County for Difficulty, or &c. shall not be remanded, to avoid Circuitry of Action. See Tit. *Adjournment*.

Where a Gaoler, or &c. may re-take a Prisoner who was in Execution, and escaped, to avoid Circuitry of Action. See Tit. *Escape*.

Where a Covenant shall change or raise Use of Lands to avoid Circuitry of Action. See Tit. *Use*.

Where and in what Actions mixt, or personal, the Warranty of the Ancestor shall be pleaded in Bar to avoid Circuitry of Action, See Tit. *Warranty*.

Where Words of Covenant shall be construed in the Sense of a Condition, to avoid Circuitry of Action. See Tit. *Condition*.

Where a Man shall plead a Condition, or take Advantage of its being found by Verdict, without shewing a Deed, to avoid Circuitry of Action. See Tit. *Monstrance of Deeds*.

Where Circuitry of Action shall be in Action upon the Statute of *Marlb. c. 15.* and Matter not to be pleaded in Bar to avoid it. See Tit. *Action upon Statutes*.

Where Execution upon a Statute, or Recognisance of Land intailed shall be avoided by the Issue in Tail by Entry, without *Audita Querela*, to avoid Circuitry of Action. See Tit. *Recognisance*.

Where Voucher by Issue in Tail, or &c. shall be upon Warranty Paramount made to their Ancestor, and not of themselves, to avoid Circuitry of Action, See Tit. *Voucher*.

Clerks.

Of Clerks and Officers in Courts, how they shall be made, and admitted. See Tit. *Officers*

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Clergy.

What Persons shall not have Clergy for Defect in themselves, as the

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For what Offences Clergy may be had, for what not. B. 4. 40, 44, 45, 46. b. 11. 30 to 37.

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At what Time Clergy may be demanded and allowed, and where a Man may pass his Time to have it. B. 11. 37, 58.

Where the Court of Office shall allow the Benefit of Clergy, without Claim of the Ordinary. B. 5. 26, 27.

Where and when a Clerk shall be delivered to the Ordinary, or not, but remanded to Prison, until &c. B. 11. 29.

Who shall be Judge to allow, or disallow Clergy. B. 5. 26, 27.

The Form of entering the Record of Clergy, and the Clerks delivering to the Ordinary. B. 5. 26, 27.

What shall be done with him that is a Clerk, but refused by the Ordinary, and for what Causes the Ordinary may refuse. B. 5. 26, 27.

Who is a Clerk attainted, who a Clerk convict, and what Things he shall forfeit. B. 5. 2 p. 110. b. 11. 58.

Where and what Clerk shall make his Purgation, and what not. B. 5. 2 p. 50. 110. b. 6. 68. b. 11. 29, 30. See Tit. *Statutes*, 18 *Eliz.* c. 7. there.

Where a Clerk shall go quit without making his Purgation. B. 5. 2 p. 50. 110. b. 6. 68. See Tit. *Statute*, 18 *El.* c. 7.

Burning in the Hand of him that has his Clergy, and where the King may pardon it, and he shall go without Mark, or not. B. 5. 2 p. 110.

Coins.

What Coins shall be current and allowed within the Realm of *England*, or not. B. 5. 2 p. 114.

Of other Realms, made current within *England* by the King's Proclamation, or not. See Tit. *Proclamation*.

How and what Payment and Satisfaction of Monies shall be made, where to the Heirs, and where to the Executors. See Tit. *Payment, Satisfaction, Heirs, and Condition*.

College.

Exposition of the Word College, in *Latin*, and *English*, and what shall be said a College. B. 4 106, 108. See Tit. *Exposition*.

Colleges given to the King by Acts of Parliament, and what not. See Tit. *Statutes*, 31 H. 8. c. 13. 1 El. c. 14. there.

Where and in what Writs Masters of Colleges, Hospitals, &c. shall be named by their Name of Baptism, or not. See Tit. *Writ*, and *Corporation*.

Form of pleading Scisin, alledged in Matters of Colleges, or &c. and where it shall be in Writ, of their College, House, or &c. See Tit. *Corporation*, and *Pleadings*.

Colour.

In what Actions Colour needs to be given, in what not. B. 10. 90.

Where in Assize Trespass, or &c. Colour needs to be given, and the Pleading shall be good without Colour. B. 10. 89, 90.

In Writ of Forcible Entry, and what shall be good, what not. B. 10. 89.

What Colour shall be good in a Writ of Trespass of Goods taken, what not. B. 10. 88 to 90.

Where Colour shall be given in a Writ of Trespass of a Close broken, &c. and what good, what not. B. 10. 88 to 90.

Where Colour given by an Estate which is void, or determined, shall be good, or not. B. 10. 89, 90.

By claiming in by Deed of, &c. where nothing passes by it, and where good. B. 10. 89, 90.

Where Colour without alledging and confessing the Possession in the Plaintiff shall be good, or not. B. 10. 91.

Where Colour given, and after destroyed by Pleading, or given by one whose Estate appears in Pleading after to be defeated and avoided, shall be good, or not. B. 10. 89.

Where and in what Actions Colour shall be good, without confessing an immediate Entry upon the Plaintiff, in what not. B. 10. 89.

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Where Collusion shall be inquired in Assize of Darein Presentment, or *Q. Impedit*, brought by, or against a Religious, and how, and of what Points. B. 9. 33.

Where a Recovery shall be falsified and void, because it was by Covin and Collusion, and contrary. B. 3. 61, 78. b. 6. 58. b. 8. 132, 133. b. 9. 109. b. 10. 39, 45. See Tit. *Dower*, and *Falsifying a Recovery*.

Where Dower shall be avoided, because assigned, or recovered by Covin, or not. B. 2. 67. b. 3. 78. b. 5. 2 p. 30. b. 6. 58. b. 8. 101, 133. See Tit. *Dower*.

Where Termor for Years, Tenant by Statute Merchant, Elegit, &c. shall falsify a Recovery had against him in Reversion, because it was upon faint Pleading, or &c. by Covin and Collusion. B. 6. 57. b. 9. 135. See Tit. *Resceit*, and *Falsifying of Recovery*.

Where a Recovery against Tenant for Life shall not bind him in Reversion, but he may enter for the Forfeiture, because it was by Covin and Collusion. B. 1. 15, 16. b. 3. 4, 60. b. 10. 37, 39, 44, 45. See Tit. *Stat. 32 H. 8. c. 31*.

Where a Gift, or Grant of Goods shall be avoided, because it was by Covin and Collusion, to defraud Creditors, B. 2. 25, 26. b. 3. 81, 82, 83. b. 5. 2 p. 60. b. 6. 18. b. 10. 56. See Tit. *Stat.* and 3 *H. 7. c. 4. 13 El. c. 5.* there.

Where Feoffments, or *&c.* of Lands shall be avoided, because by Covin, to defraud Debts, Creditors, and Executions, and against whom they shall be void, against whom not. B. 3. 82. b. 5. 2 p. 60. b. 6. 72. b. 11. 74. See Tit. *Statutes*, and 27 *El. c. 4.* there.

Where an Administration and Release upon it shall be void, because obtained and made by Covin. B. 3. 78. b. 6. 18, 19. b. 8. 143. See Tit. *Administration.*

Of outing the Lord of his Ward, Relief, or *&c.* and what shall make a Collusion in a Conveyance of Lands by the Tenant to such Intent, and the Lord shall have Wardship of the Lands notwithstanding, or not. B. 1. 122. b. 2. 94. b. 3. 66, 81. b. 6. 76. b. 7. 40. b. 8. 164. *Stat. Marl. c. 6.*

Where Collusion ought to be by the Lord of all the mean Estates and Conveyances after the first Estate by the Tenants made by Collusion. B. 1. 122. b. 2. 94.

Where Collusion may be averred upon the joint Estate made to the Son and Heir, and a Stranger, or not. B. 6. 76. b. 8. 164.

Where Collusion shall be apparent in Cases, or not, but must be averred, and the Cause of the Covin shewn, or not. B. 3. 81. b. 7. 40. b. 8. 133. b. 9. 109, 110.

Where Collusion shall not be averred by the Lord, against his Acceptance of Services by the Hands of the Feoffee. B. 3. 66. See Tit. *Acceptance.*

Where a Fine shall be avoided, and not bind him that has Right, because levied by Covin. B. 3. 77, 78. See Tit. *Fines.*

Where the Lord cannot enter upon the Feoffee supposed by Collusion, but put to his Writ of Ward to try the Collusion. B. 9. 73. b. 11. 77.

Where Resceit shall be granted to Lessee for Years, Tenant by Statute Merchant, Elegit, or by him in Reversion in Fee, or *&c.* upon Default Render, or faint Pleading of Tenant for Life by Covin and Collusion to make them lose their Rights. See Tit. *Resceit.*

Where Remitter shall not be to the Issue in Tail, or Wife, because of Covin and Collusion. See Tit. *Remitter.*

Where Property of Goods shall not change, and be taken away by Bargain and Sale in Market open, because of Covin. See Tit. *Contract.*

In forging of false Deeds, and how that shall be punished. See Tit. *Forgery of false Deeds.*

In Conspiracies, and how that shall be punish'd, See Tit. *Conspiracy.*

Where a Conveyance of Land by the Father to his Son and Heir shall be void, because of Covin, and he adjudged in by Descent, and the Land Affets. See Tit. *Affets.*

Where Laches of Claim within Five Years upon a Fine levied shall not prejudice, because levied by Covin. See Tit. *Continual Claim.*

Where Resignation shall not abate a Writ, but shall be void, because done by Covin. See Tit. *Writ.*

Where Letters Patents of the King shall be repealed, because of Covin, and the King thereupon deceived in his Grant. See Tit. *Grants of the King.*

Where Executors shall be charged upon *Devastavit*, notwithstanding the Recovery, *&c.* of the Goods of the Dead, because the Recovery was by Covin, and what shall be said Covin in such Case. See Tit. *Affets*, and *Executors.*

Where Presentation to a Church shall be void, and avoided, because by Collusion. See Tit. *Presentation to a Church.*

Where Warranty collateral shall not bar, because after Disseisin by Covin and Collusion. See Tit. *Warranty.*

Where Seisin of Rent, or *&c.* by Hands of the Disseisor shall not bind the

the Disseise, because of Collusion. See Tit. *Seisin*.

Where Acceptance of Rent shall not bar to Claim, and have the Land, because of the Covin in the Lessee, and what shall be Collusion in such Case. See Tit. *Acceptance*, and *Arrearages*, and *Notice*.

In Lessee for Years, by secret Conveyance of Land by Covin to defraud his Lessor, and what shall be such Covin and Conveyance. B. 3. 64, 65, 77, 78. See Tit. *Notice*, *Acceptance*, *Arrearages*, *Continual Claim*.

Commandment.

Where Command by Parol shall be good and sufficient, and shall be pleaded without shewing the Deed of it, and so of a Licence, or not. B. 6. 38. b. 9. 69, 99. b. 10. 92. b. 11. 48. See Tit. *Monstrance of Deeds*, and *False Imprisonment*, and *Licence*.

Where he that does and executes a Thing by Commandment, or *&c.* under the Authority given to him by another, is no Trespasser, or *&c.* tho' he that commands him hath no Authority, or his Authority is disproved, or void, and where contrary. B. 6. 18, 54. b. 10. 70, 76.

Where he that has Authority by the Command of another, shall be a Trespasser, or *&c.* for not pursuing his Power, and what Execution of an Act shall be pursuing, what not. B. 1. 111, 173. b. 4. 46. b. 5. 2 p. 91, 94. b. 11. 4. See Tit. *Authority*, *Feoffments*, or *Deeds*.

Where the Command shall be traversed, and Issue taken upon it, or not. B. 6. 24. b. 8. 66, 67.

Where a Command may be countermanded. See Tit. *Authority*, *Countermand*, and *Revocation*.

Where a Man shall be principal in Cases of Felony, or Death of a Man by Command, or not. See Tit. *Crown*.

Where continual Claim made by a Servant, or Stranger by Command shall be good and vest an Estate, or not. See Tit. *Continual Claim*.

Where the Master, or Sovereign shall be charged, and answer for the Act and Offence of his Servant, and by Command, or not. See *Charge*.

Where a Condition to be performed to one Person, may be performed to another by Command, and that countervail the Performance. See Tit. *Condition*.

The Authority of a Bailly, and what Things he cannot do by his general Authority, without special Command. See Tit. *Authority*.

Where a Man shall have Aid of the King, where he justifies as Bailly of the King, or by his Command. See Tit. *Aid of the King*.

Commission, and Commissioners.

Commissions of *Nisi prius*, and their Authority. B. 10. 103. See Tit. *Justices*.

Commission of Justices of Oyer and Terminer, and their Authority. B. 4. 46, 47. b. 9. 118. See Tit. *Justices*, and *Oyer and Terminer*.

Commission of Justices of Gaol-Delivery, and their Authority, and when their Commission ceases. B. 4. 46, 47. b. 9. 118. b. 10. 53, 54. See Tit. *Justices*.

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Where Bargains, and Sales, Feoffments, Leases, or *&c.* made of the Lands, or *&c.* of other Men by Commissioners, shall be good, and stand in Force against the Owners and their Heirs. B. 2. 25, 80. b. 9. 76, 77.

Where



Where a Commission shall be awarded to make Inquiry of Concealments, Subtractions, Frauds, or other Misdemeanors of Officers and Ministers of the King, &c. and their Authority. B. 10. 114.

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Where, and when, and by what Act the first Commission shall cease and be determined by Grant of another. See Tit. *Corporation*.

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Where Commissioners shall fine to the King, or forfeit a certain Sum of Money in the Name of a Penalty for their Negligence, or Misdoing. B. 9. 70, 71.

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Where and what Commissions of the King cease and determine by Demise of the King, what not. See Tit. *Grant of the King*.

Where an Office taken before Commissioners shall be equivalent with an Office taken before the Escheator, and where it may be taken by them without Warrant. See *Office before the Escheator*.

Offices taken before the Escheator by Virtue of Writ, or Commission. See Tit. *Office before, &c.*

Where Justices by Commission shall be punish'd for their Misdoing, where not. See Tit. *Enditement*.

Where it is no Challenge to a Juror, that he was heretofore a Com-

missioner to examine Witnesses. See Tit. *Challenge*.

Common, and Commoners.

What shall be common Appendant, and to what Land; how the Title shall be made to it, and with what Beasts to be used and taken with, what not. B. 4. 37, 38. b. 6. 60. b. 8. 79.

What shall be appurtenant, and how Title shall be made to it, and with what Beasts it shall be taken and used. B. 4. 37, 38. b. 6. 60. b. 7. 5. b. 8. 78, 79.

Because of Vicinage, what it shall be, and who shall have it, and how Title shall be made to it, and how to be used, &c. B. 4. 38. b. 6. 60. b. 7. 5.

Common of Estovers, and how they shall be claimed, and what Title shall be good to have them, and what not. B. 4. 86, 87. b. 5. 2 p. 17, 24. b. 8. 47. b. 9. 112. See Tit. *Affize*.

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Of Pasture Way, or &c. claimed by Inhabitants, or Parishioners, and Form of Pleading, to make a Title to it by them. B. 4. 32. b. 6. 60.

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Claim conditionally, or under a Manor, and where it shall be good. B. 5. 2 p. 78, 79.

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What shall be sufficient Seisin of a Common to have an Affize. B. 6. 57. See Tit. *Affize*, and *Seisin*.

Grant to a Man, when the Beasts of the Grantee shall go there, and how

how it shall be taken and construed. B. 1. 87. See Tit. *Grants*.

Where Affize lies of a Common of Pasture, or a Parcel of a Common, and how Approvement may be made by the Lord of the Waste. See Tit. *Affize*, and *Approvement*.

Where it ought to be appendant to a Messuage House, or Land, or not, &c. See Tit. *Appendant*.

Where and what Common may be granted, or assigned over, what not. See Tit. *Assignee*.

Where a Common shall be extinguished by Unity of the Possession of the Land, or Parcel of it, or by Alienation of the Land to which, &c. or not. See Tit. *Extinguishment*.

Where a *Quod permittat* lies of a Common, and against whom, &c. See Tit. *Quod permittat*.

Where Common appendant, or &c. passes by the Feoffment of the Manor, to which without the Words (with the Appurtenances) or not. See Tit. *Appendant*.

Where Grant of Common not expressed where, &c. shall be good, and how the Grantee shall have Benefit of such Grant. See Tit. *Grants*.

What Custom, or Prescription to have Common, shall be good, what not. See Tit. *Custom*, and *Prescription*.

Where Recouping for Common of Pasture shall not be. See Tit. *Recouping*.

Claim by the Lord for him and his Tenants, how, and for whom. See Tit. *Prescription*.

Common Bench.

Justices of the Common Bench, and their Authority, and of what Pleas and Matters this Court shall have Jurisdiction, of what not. B. 10. 76.

Pleas of Land belong to the Court of Common Bench. See Tit. *Statutes*, and *Mag. Chart.* c. 11. there, and the Exposition of it.

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Bench, and Exchequer in Award of Process. See Tit. *Courts*.

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Where Prohibition shall and may be granted out of the Common Bench. See Tit. *Prohibition*.

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Common Law.

Where the Common Law shall be preferred before Custom, or Statute Law. B. 2. 35. b. 4. 71. See Tit. *Prerogative*, and *Statutes*.

Where the Judges of the Common Law are bound to take Notice of the Civil Law, and direct their Judgment according, and contrary to the Judges of the Civil Law. B. 4. 29. b. 5. 2 p. 58. b. 8. 68, 135. See Tit. *Notice*, and *Ignorance*.

Where no Need to alledge Custom, or make Prescription in a Thing allowed by the Common Law. See Tit. *Custom*, and *Prescription*.

Where a Man may have and maintain an Action, or Process at the Common Law, or given by Statute at his Election, or not. See Tit. *Election*.

Where in an Action, &c. a Man may have, and pray Judgment at the Common Law, or which is given by Statute, or not. B. 9. 72, 74. b. 11. 62. See Tit. *Forests*, and *Election*.

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Where Discents shall be at the Common Law to Heirs collateral of Lands given in Frank-marriage, or in Tail, and Alienation barred before the

the Statute of *Westm.* 2. c. 1. See Tit. *Formedon.*

Where and when Mortdancestor lay at the Common Law, upon a Gift in Tail of Lands, or *&c.* See Tit. *Mortdancestor.*

Where all the Heirs by Custom of Gavelkind shall not rebut by Warranty of their Ancestor, but the Heir at the Common Law only. See Tit. *Rebutter.*

Where a Man shall vouch as Heir who is not Heir at the Common Law, and shall be vouched who is not Heir at the common Law. See Tit. *Voucher.*

Where the Common Law was in many Cases wanting, and in some Cases a Man without Remedy for his Right. See Tit. *Statutes, West.* 2. c. 1. c. 5. *Gloc.* c. 3. 11 *H.* 7. c. 20. *&c.*

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Where and against what Persons and Estates an Action of Waste lies at the Common Law, and against what not. See Tit. *Waste.*

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*Common Weal.*

Where and what Things are not distrainable for Rents, or Services, because necessary for the Common Weal. See Tit. *Distress.*

Where a Man may justify his Entry into the Land of another, and taking his Goods without claiming ought to his own Use, and justifiable, because for the Common Weal. See Tit. *Justification.*

Where Action of the Case lies not against a Man who has raised a Nuisance, or done any Thing to the Hurt of another, because for the Weal publick. See Tit. *Action of the Case.*

Where an Obligation with a Condition to restrain a Man to use and exercise his Trade, or Mytery shall be void, because to the Hurt of the

Common Weal. See Tit. *Condition,* and *Monopoly.*

Where Monopolies shall not be suffer'd, because to the Prejudice of the Common Weal. See Tit. *Monopolies.*

Where Prescription, or Custom to do a Thing which is for the Weal Publick, needs not. See *Custom,* and *Prescription.*

Where a Sheriff, Officer, or other may justify the Entry, or Breach of an House, because for the Common Weal. See Tit. *Justification.*

*Composition.*

Where and what Partition betwixt Parceners of an Advowson shall be good, and how they shall present with Composition, how without. See Tit. *Presentation to a Church, Partition,* and *Parceners.*

Where a Man shall be discharged of Tithes by Composition, and what Composition shall be good, what not. See Tit. *Tithes.*

*Computation.*

Of Six Months upon Bargain and Sale, and Inrollment of a Deed, and how the Six Months shall be accounted. B. 5. 2 p. 1. See Tit. *Enrollments.*

Of the Time for the Beginning a second Lease, made to begin after another Lease in Being, and how the Time shall be accounted. See Tit. *Leases.*

How Time shall be accounted in Deeds, Leases, or *&c.* to have and to hold from the Making thereof, or from the Date thereof, or from the Day of the Date, *&c.* B. 5. 2 p. 1. 94.

Where and to what Intents the whole Term shall be accounted as one Day, to what contrary. B. 5. 2 p. 74, 76. b. 4. 71.

Of the Time upon a Lease for Years with Condition, or Reservation of Rent, to be paid one Month, or *&c.*

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&c. after any Feast, in which, &c. how to be accounted. B. 10. 129.

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Where Computation shall be made according to Custom of the Country for Quantity of Land, or not, according to Stat. *De terris admensurand.* B. 6. 67.

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Of the Day in Cafes, and how divided, or not. B. 1. 102, 106. b. 3. 39. b. 5. 2 p. 1. b. 6. 33. b. 10. 127, 129.

Of the Age of an Infant Executor upon Administration committed during Minority. B. 5. 2 p. 9. 29. b. 6. 67. See Tit. *Administration*.

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Of the Time to claim upon Fines levied of Lands, and how the Five Years shall be accounted. See Tit. *Continual Claim*.

How Attachment shall be in Assize, and how the Fifteen Days shall be accounted and tried. See Tit. *Attachment*.

Of the Year and Day upon Waif and Estray, and how, and to what Time to be accounted. See Tit. *Waif*, and *Estray*.

Of Year and Day to claim upon Judgment final in a Writ of Right at the Common Law. B. 1. 96, 97. b. 8. 100.

Of Year and Day upon Wreck of the Sea, how, and to what Time to be accounted for the Owner to make his Claim. See Tit. *Wreck*.

Of Year, Day, and Waste for the King upon Forfeiture for Felony, or &c. and how the Year and Day shall be accounted. See Tit. *Forfeiture*.

Of the Third Part upon the Statutes 32 H. 8. and 34 H. 8. to descend and be in Ward. See Tit. *Statutes*, and there 32 H. 8. c. 1.

Of Profit, and Issues of Lands received upon Forfeiture of Marriage, or Intrusion, &c. and how to be ac-

counted. See Tit. *Action upon Statutes*, and *Statutes Merton.* c. 6, 7.

How the Time shall be accounted to have the Writ by Journies Accounts. See Tit. *Fournies Accounts*.

Of Six Months, to present to a Church for the Ordinary upon Notice given to the Patron, and to what Time the Six Months shall be accounted. See Tit. *Notice*, and *Ordinary*.

Of the Year and Day to bring and begin Appeals, and how the Year and Day shall be accounted. See Tit. *Appeals*.

Of the Six Months Time, upon Presentation, or Collation to a Church to have Damages in a *Quare Impedit*, and how, and to what Time the Six Months shall be accounted. See Tit. *Exposition*, and *Quare Impedit*.

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Where and what Lands shall be said concealed, what not. B. 3. 73, 74. b. 4. 36. b. 10. 109 to 115.

Condition.

Where and what Words in the King's, or a common Person's Grant shall make a Condition, where, and what not. B. 1. 104. b. 2. 71, 72. b. 3. 21. b. 4. 3, 121. b. 5. 2 p. 116. b. 8. 44. b. 10. 40, 41.

Against Law, and which shall be such, and how construed. B. 1. 23, 25, 84, 85, 130, 132, 137, 138. b. 4. 3. b. 5. 2 p. 56. b. 6. 40 to 43. b. 8. 17. b. 10. 36 to 43.

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Impossible, which shall be, and how construed. B. 1. 84, 85. b. 2. 79. b. 5. 2 p. 22. b. 6. 40, 41. b. 8. 82, 83.

Where and what Person shall enter for a Condition broken, where a Stranger to the Deed shall enter for a Condition, or not. B. 3. 62, 65. b. 4. 120. b. 5. 2 p. 55, 56, 112. b. 7. 12. b. 8. 43, 44, 90, 91, 95. See Tit.

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*Assignee*, and *Statute* 32 H. 8. c. 34. there.

Where and what Words conditional import in themselves a Re-entry, and without a Clause of Re-entry, what not. B. 1. 104.

Where an Estate and Possession in Lands, or *&c.* upon a Condition broken, shall be adjudged in the Grantor, Feoffor, or *&c.* without Entry in Deed, Seizing, or Claim, or not. B. 1. 85, 94, 95, 147, 174. b. 2. 53. b. 3. 65. b. 4. 53. b. 8. 44, 95. See Tit. *Claim*.

Where upon Condition broken, the Estate shall be void from the Beginning, and to what Intents the Lessor, Feoffor, or *&c.* shall be adjudged by Re-entry, in, of his first Estate, and to what Intents not. B. 1. 84, 85, 132. b. 2. 52. b. 6. 40. b. 7. 14. b. 8. 43, 44, 75. b. 10. 40, 41.

Where and what Condition upon Feoffment in Fee, that he shall not alien, shall be good, what not. B. 1. 88, 130. b. 5. 2 p. 56. b. 10. 38.

Where a Condition upon a Gift in Tail, or Lease for Life, Years, *&c.* that he shall not alien, nor waste, shall be good. B. 10. 39, 40.

Where a Condition upon an Estate in Fee, or Tail, that the Wife shall not have Dower, is not good. B. 10. 39.

Where a Condition upon a Grant of an Annuity, not to charge his Person, shall be good, or not. B. 6. 58. b. 7. 38, 39.

Where a Condition upon a Gift in Tail, or Lease for Life, or *&c.* that if they alien, or go about to alien, or upon any other Contingent, that then the Land shall be and remain to another in Fee, or *&c.* shall be good, or not. B. 1. 84, 130. b. 6. 40 to 43. b. 8. 90. b. 9. 128. b. 10. 36 to 43. See Tit. *Remainder*.

Where a Condition upon a Lease for Life, or Years, that if he be outed or disturbed by the Lessor, or a Stranger, that he shall have Fee, shall be good, and how it shall take Effect, or not. B. 1. 84, 85. b. 8. 75, 76, 91.

Upon Condition that a Man shall not disturb, molest, or hinder another, but suffer him, *&c.* what Act shall be a Breach of such a Condition, what not. B. 8. 90, 91. b. 9. 51.

Where a Condition upon a Lease for Life, or Years, that if the Lessor grant his Reversion to another in Fee, or *&c.* shall be good, and how it shall be taken and construed, if he alien. B. 1. 84, 130. b. 8. 76.

Where a Condition that a Man shall not use his Trade, Mystery, or Art, shall be void. B. 8. 125. b. 11. 53. See Tit. *Monopolies*.

Where a Condition upon an Obligation, or *&c.* to keep one harmless, or without Damage, or discharge him, *&c.* shall be good; and what Act shall be a Performance of it, what not. B. 2. 3. b. 5. 2 p. 24. b. 9. 25. b. 10. 100.

Where a double Condition shall be good, one to be performed of the Part of the Feoffor, or *&c.* another of the Part of the Feoffee, or *&c.* and how and when they shall be said performed. B. 1. 156.

How a Condition upon a Feoffment, or *&c.* to pay Monies by him, his Heirs, or Executors, or to him, his Heirs, or Executors, shall be performed, and to whom, and by whom the Payment to be made. B. 1. 133. b. 2. 50, 52. b. 5. 2 p. 96, 114. b. 8. 95.

In the Disjunctive, and how to be performed, and who shall have his Election of the Disjunctive. B. 2. 37. b. 5. 2 p. 22, 112. b. 8. 90, 91. See Tit. *Demand*, and *Annuity*.

Where a Condition to be performed at a Place certain, may be performed at the same Place, or another, or not. B. 4. 72, 73.

Where a Condition to be performed at a Day certain, may be performed the same Day, or another, or not. B. 7. 15.

Where a Condition to be performed to one, or by one Person certain, may be performed to the same Person and another, or to another only, and

and the Form of Pleading thereupon. B. 2. 60. b. 7. 12, 13.

Where a Condition to satisfy, or pay Monies, &c. shall be satisfied and performed by Retaining, and that shall countervail Payment indeed, or not. B. 5. 2 p. 117.

How a Condition to be performed, and no Place expressed, &c. must and shall be performed. B. 4. 73.

How a Condition, and no Day nor Time expressed, &c. must be performed, and when, and how. B. i. 25. b. 2. 70, 73, 79. b. 6. 30, 31. b. 7. 15. b. 8. 91.

How a Condition to pay Monies shall be performed, and what shall be said Satisfaction, or shall countervail Payment, or not. B. 5. 2 p. 114, 117. b. 8. 76. b. 9. 78.

How a Condition to levy a Fine of Lands, or &c. shall be performed. B. 4. 55. b. 5. 2 p. 127.

How, and when a Condition upon a Feoffment, or Obligation to re-entfeoff, or give in Tail, shall be performed, and what Acts shall disable, what not. B. i. 25, 133. b. 2. 59, 70, 79, 80. b. 3. 34. b. 5. 2 p. 21. b. 6. 30, 31. b. 8. 90, 91.

How a Condition, or Covenant upon a Feoffment, or Obligation to be performed to a Stranger, &c. shall be performed, and what Act is a Breach, what not. B. i. 25. b. 2. 3, 79. b. 8. 90, 91.

To make Assurance at the Costs and Charges, &c. how to be construed, and what Party shall be at the Charge. B. 5. 2 p. 22.

How a Condition, that a Stranger shall do an Act, &c. shall be performed, and when said to be performed. B. 2. 3.

How a Condition that the Obligor shall make a sure and sufficient Estate in Lands, or &c. or such Estate as his Counsel shall advise, &c. shall be performed, and what Act shall perform it, what not. B. 2. 3. b. 5. 2 p. 19, 20, 23.

Where by Performance, or not Performance of a Condition, the Estate of the Feoffee, or his Heirs, or Af-

signs shall be abridged, and become but a Term for Years, or &c. and that a Term shall be an Estate in Fee, and when does the Estate in Fee increase, or pass, or not. B. i. 84, 130. b. 8. 74, 75, 76, 90, 91, 95, 145.

How a Condition to keep a Park, &c. shall be performed, and what Act shall be performed, and what Breach of the Condition. B. 9. 50.

How a Condition not to suffer any Whore to abide in the Houses leased to him shall be performed, and what Act shall be Performance, what not. B. 8. 91.

How a Condition upon an Obligation to stand to Award and Arbitrement, &c. shall be performed. B. 5. 2 p. 103. b. 10. 131. See Tit. *Arbitrement*.

How a Condition, or Covenant to leave Houses, &c. in as good Plight and Estate as he received them, shall be performed, and what Act shall be Performance, what not. B. i. 98. b. 5. 2 p. 21. b. 7. 15.

How a Condition that a Man shall keep the Peace, or be of good Behaviour, shall be performed, and what Act shall be a Breach of it. B. 9. 51. See Tit. *Peace*.

How a Condition that the Lessee and his Assigns shall not alien without the Licence of the Lessor, or &c. shall be performed, and what Alienation shall be a Breach, what not. B. 3. 64. b. 4. 119, 120. b. 6. 38.

Where a Condition which reserves a Re-entry for a certain Time, or defeats the Estate for a certain Time, shall be good, or not. B. i. 84, 85, 87, 132. b. 2. 52. b. 6. 40. b. 10. 41.

Where a Man is not bound to perform a Condition upon an Obligation, Feoffment, or &c. without Notice, or Request, and what shall be good and sufficient Notice and Request, what not, and where contrary. B. i. 133. b. 2. 3, 70, 79, 81. b. 5. 2 p. 19, 20. b. 6. 30, 31. b. 8. 82, 92.

Where Time convenient and reasonable shall be allowed to him that ought to perform a Condition, after Request

Request made, or Notice given, and what Time shall be said reasonable, &c. B. 1. 22, 25. b. 2. 3. b. 6. 31.

Where a Condition shall be performed by Attendance at a Day, or Place, &c. or by Tender and Refusal to the Party to whom, &c. and what shall be a good and sufficient Tender, what not. B. 5. 2 p. 114. b. 9. 79. See Tit. *Tender*, and *Refusal*, and *Touts temps Prest.*

Where a Condition shall be performed by Acceptance of another Thing than that comprised within the Obligation, or Condition, or of Part in Satisfaction of the Whole, or not. B. 5. 2 p. 117. b. 9. 78. See Tit. *Acceptance.*

How a Condition, which consists of several Acts to be done by several Persons, but it is not expressed by which it shall be performed, nor who shall do the Act to the Performance of it. B. 2. 5. b. 5. 2 p. 20, 22, 23, 127.

Where a Condition, or Covenant shall not be said performed, if the Intent of the Parties be not performed, tho' the Words be fully accomplished, and contrary. B. 1. 25, 137. b. 2. 81, 82. b. 4. 80. b. 5. 2 p. 21, 117. b. 7. 12, 13. b. 8. 44, 70, 90, 91.

Where a Condition upon an Obligation, Grant, Feoffment, or &c. shall be discharged in Part, by the Act of God, of the Law, or the Party to which, &c. and shall stand in another Part, or not. B. 4. 52, 120. b. 5. 2 p. 22. 56. b. 8. 131. See Tit. *Apportionment.*

Where a Condition upon an Obligation, Grant, Feoffment, or &c. shall be discharged by Death, or any other Act of God, or not. B. 2. 59, 60, 79, 80. b. 5. 2 p. 22 p. 8. 90.

Where a Condition upon an Obligation, Grant, Feoffment, or &c. shall be discharged by Act of Law, or not. B. 2. 52, 71, 79. b. 10. 131. See Tit. *Apportionment.*

Where a Condition upon an Obligation, Grant, Feoffment, Lease, or &c. shall be discharged by the Act of the Parties, and by what Act, and

what not. B. 1. 97, 147, 174. b. 2. 52, 59, 71, 73, 77, 78. b. 4. 52, 53, 120. b. 5. 2 p. 55. b. 8. 91, 92. b. 10. 41. See Tit. *Apportionment.*

Where and by what Act a Condition shall be extinguished, or put in Suspence for a Time, or not. B. 1. 97, 147, 174. b. 2. 52, 59, 60, 73 to 79. b. 3. 64. b. 4. 52, 53, 120. b. 5. 2 p. 55. b. 7. 14. b. 8. 76. b. 9. 140. 142.

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How a Condition to carry Wood out of a Wood shall be performed, and what Act is a Breach. B. 8. 83.

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Of Payment of Rent reserved upon Lease for Years, or &c. and for Default of Payment Re-entry, what Demand of Rent shall be good and effectual, what not. See Tit. *Demand*, and *Entry congeable.*

Where a Remainder shall be good on Condition, or Contingency, and how it shall take Effect. See Tit. *Remainder.*

Where a Condition shall avoid an Estate in Part, or against one Person, and stand in Force for another Part, or against another Party, or not. B. 1. 85, 132. b. 2. 53. b. 4. 121.

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How the Condition of an Obligation, that either of them shall stand to Arbitrement, or do any other Thing, shall be performed. See Tit. *Exposition.*

Upon Annuity granted for Counsel given, or Service done, or to be done, or &c. how to be performed. See Tit. *Annuity.*

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How Time shall be accounted upon a Condition to pay Rent at a Feast, &c. or a Month, &c. See Tit. *Computation*.

Where a Man shall plead a Condition without shewing a Deed, or not. See Tit. *Monstrance of Deeds*.

Where a Deed may be delivered upon Condition, or not. See Tit. *Deeds*.

Where the Heir who enters for the Condition broken, shall be in Ward, or not. See Tit. *Ward*.

Where a Verdict which finds a Condition not pleaded, nor given in Evidence, shall be good, and the Parties have Benefit of it. See Tit. *Verdict*, and *Monstrance of Deeds*.

Where Entry shall be lawful upon the King's Possession, by Reason of a Condition broken without Petition, Traverse, or &c. See Tit. *Entry Congeable*.

Where Administration of Goods may be granted conditionally. See Tit. *Administration*.

Devise upon Condition, and what Words in a Testament make a Condition, what not. See Tit. *Devise*.

Where a Fine of Lands, &c. may be levied upon Condition, or no. See Tit. *Fines*.

Where a Count simple of a Deed, without speaking of the Condition where the Deed was conditional, shall be good. See Tit. *Count*.

To what Time an Act done upon Condition shall have Relation. See Tit. *Relation*.

Condition to revoke Uses, and what Revocation shall be good, what not. See Tit. *Revocation*.

Upon Assignment of a Debt to the King revocable, or &c. how to be performed. See Tit. *Revocation*.

To make an Estate at the Cost, &c. how to be performed. See Tit. *Damages*, and *Costs*.

To be performed over Sea, how to be tried, and from what Place shall the Vifne come. See *Enquest*, and *Trial*.

*Confederacy*. See Tit. *Conspira y*.

## Confession.

Where Judgment shall be given against the Defendant upon his Confession, tho' the Verdict finds for him. See Tit. *Judgment*.

Where the Writ shall abate by Confession of the Plaintiff or Demandant, or by his own Shewing in Pleading by Replication, or Evidence, or not. B. 3. 1. b. 5. 2 p. 18. b. 9. 53. See Tit. *Writ*.

Where Affize shall be awarded to enquire of Seisin and Disseisin, notwithstanding it be confessed. See Tit. *Affize*.

Where Husband and Wife shall not be received to acknowledge an Action. See Tit. *Baron and Feme*.

Where in *Per que servitia*, or *Quid juris clamat*, the Tenant shall not be compelled to attorn, without Advantages saved to him by Confession of the Plaintiff. See Tit. *Attornment*.

Where in an Action against Executors the Confessor of one shall bind his Companion. See Tit. *Executors*.

Where the Succession of a Parson, Vicar, or &c. shall falsify a Recovery had against his Predecessor by Confession, Render, or &c. or not. See Tit. *Falsify a Recovery*.

Where and what Matters and Things shall be confessed by Demurrer in Law, where, and what not. See Tit. *Demurrer*.

Where the Defendant shall be amerced upon his Plea found false by Confession, or &c. See Tit. *Amercement*.

Where a Man shall be estopped of a Thing confessed by way of Recital. See Tit. *Estoppel*.

Where a Man shall make Purgation against his Confession, in Cases of Felony, or not. See Tit. *Clergy*.

Where Debt lies for Parcel of a Debt, and the Writ and Count maintained by Confession, to be satisfied of the Residue. See Tit. *Debt*.

Where the Verdict which finds against that which is confessed and affirmed by the Parties in Pleading, shall be void. See Tit. *Verdict*.



*Confirmation.*

Where a Man shall have a Writ of Error against his own Confession. See Tit. *Error*.

*Confirmation.*

Where a Deed (by the Words Given and Granted) or &c. without the Word Confirmed to him that has Possession of the Land, or &c. shall be a Confirmation. B. 2. 24. b. 5. 2 p. 15.

Where the Lord by Confirmation may abridge the Services of his Tenant, but not reserve a new Rent, Tenure, &c. B. 9. 142.

Where a Confirmation to one Person and one Estate, shall enure to all and their Estates, and where a Deed for Parcel of the Land, or Part of the Time, shall enure to the whole. B. 5. 2 p. 81.

Where a Confirmation to the Husband and Wife gives the Estate to one of them who had nothing before, and enures to both; and how, or not. B. 2. 24. b. 9. 139. See Tit. *Releases*.

Where Confirmation to Lessee for Life, or Years, enlarges not their Estate for Want of Words, and by what Words such Estates shall be &c. B. 1. 147. b. 9. 139 to 142. See Tit. *Releases*.

Where an Estate for Life, or Years, without Impeachment of Waste becomes punishable for Waste by Confirmation after, and contrary. B. 8. 76. b. 9. 140. See Tit. *Waste*.

Where an Estate in Fee shall be changed and abridged by Confirmation, or not. B. 9. 139, 142.

Where a Condition shall be extinguished and gone by Confirmation. B. 1. 147. b. 9. 140, 142. b. 7. 14. b. 8. 76. See Tit. *Conditions*.

Where a Confirmation made by the Lord Paramount to the Tenant Peravail, extinguishes the Mesnalty, or not. B. 9. 142. See Tit. *Extinguishment*.

Where a Confirmation enlarges an Estate in Rent, or &c. of which there was no Reversion at the Time of the Confirmation. B. 5. 2 p. 15. See Tit. *Grants*.

Where a Lease, Grant, or &c. made by an Abbot, Bishop, or &c. shall bind the Successor by Confirmation of the Chapter, or &c. and what shall be sufficient Confirmation, what not. B. 4. 23, 24. b. 5. 2 p. 3. b. 6. 34. b. 10. 60, 62. b. 11. 9.

Where a Lease, Grant, or &c. made by a Parson, or Prebend, shall be good, and bind the Successor by Confirmation and Agreement of the Patron, &c. and what shall be a sufficient Agreement and Confirmation, what not. B. 1. 153. b. 4. 23. b. 5. 2 p. 81. b. 6. 34. b. 11. 19.

Where a Grant, Lease, or &c. by a Dean is not good to bind his Successor, without the Confirmation of others, and of whom. B. 4. 23. b. 5. 2 p. 3.

Where the void Grant of the King, or common Person shall be made good by Act of Parliament, or Letters Patent of the King, or not. B. 1. 51. b. 4. 108. b. 8. 128. b. 11. 69.

Where the Grant, or &c. of the King shall be good, and not need the Confirmation of other Kings which succeed after, or not. B. 8. 167. See Tit. *Grant of the King*.

Where upon the Joining of Two in a Feoffment, Grant, Lease, or &c. who have several Estates, this shall enure as the Grant, Feoffment, or &c. of one, and the Confirmation of the other. B. 1. 76, 147. b. 2. 35 to 37. b. 6. 14, 15. b. 10. 49.

Where a Confirmation made to Two, where one has Possession alone, shall enure to both, and they shall take an Estate by it, or not. B. 2. 24.

Where a Confirmation upon Condition shall be good, or not. B. 5. 2 p. 81, 82.

By Parliament, and how to be construed. B. 5. 2 p. 62, 63, 64. b. 8. 19, 122, 126, 128. See Tit. *Customs, Parliament, and Statutes*.

Where Confirmation by Tenant in Tail with Warranty shall make Discontinuance. See Tit. *Discontinuance*.

Where the Tenant, or a Stranger shall estop the Lord by his Deed of Con-

Confirmation, to claim other Rents, or Services, &c. See Tit. *Avowry*.

Of Franchises by Act of Parliament, and how such Confirmation shall avail. See Tit. *Franchises*.

Where a Writ of Mesne shall be maintained upon a Confirmation. See Tit. *Mesne*.

The Form of pleading a Confirmation. See Tit. *Pleading*.

Where the Confirmation of the Dissee to the Grantee of the Disfeisor of a Rent, or &c. shall make the Grant good, and bind him after Re-entry. See Tit. *Disseisin*.

By Acceptance. See Tit. *Acceptance*.

Where and what Statutes are but Confirmations of the Common Law, and Declarations of it. See Tit. *Statutes*.

Of Letters Patents of Kings and Queens by Parliament, notwithstanding Misnaming, or &c. the Constructions of those Statutes. See Tit. *Statutes* 34 H. 8. 1 Eliz. 18 Eliz. 35 Eliz. 43 Eliz.

*Consanguinity, and Alliance.*

Exposition of the Words *puero, sanguine, semini, proli, exitui, liberis*, and *proximo de sanguine*. B. 1. 103. b. 3. 40, 61. See Tit. *Exposition*.

Who shall be a Person next of Kin, to whom Administration of Goods ought to be committed. See Tit. *Administration*.

Who shall be a Person next of Blood to enter for Forfeiture, upon Assent to a Ravisher, upon the Statutes of Rape. See Tit. *Rape*.

Where the Father and Mother &c. shall have Trespass, or Ravishment of Ward of their Son, or Daughter, &c. and the Form of the Writ. See Tit. *Ward*.

Where Voucher lies not amongst Privies of Blood. See Tit. *Aid*, and *Of one Coparcener to another* there.

Where Entry of one Coparcener shall avail another, and vest the Estate in her for Privy of Blood. See Tit. *Entry Cong.*

Where a Writ of Covenant lies by and against an Heir, for Privy of Blood. See Tit. *Covenant*.

Where Morrdancestor lies not amongst Privies of Blood. See Tit. *Morrdancestor*.

Where a Stranger not privy in Blood may enter for a Condition. See Tit. *Condition*.

Where Entry shall be lawful upon Discent, because of Privy of Blood. See Tit. *Ent. Congeable*.

Where Reservation of Rent cannot be, but to those who are privy in Blood. See Tit. *Reservation*.

Where and what shall be Consanguinity sufficient to raise Uses of Lands. See Tit. *Uses*, and *Considerations*.

What shall be Consanguinity sufficient to which a Devise may be good by Stat. 32 & 34 H. 8. what not. See Tit. *Devise*, and *Statutes*.

Where Aid shall be granted of one Coparcener to another for Privy of Blood. See Tit. *Aid*.

*Conscience*. See Tit. *Sub poena*.

*Consent*. See Tit. *Assent*.

*Considerations.*

What shall be a good and sufficient Consideration to make Assumpfit, upon which an Action of the Case will lie. See Tit. *Action of the Case*.

What are good and sufficient Considerations to raise, or change Uses of Lands, what not. See Tit. *Uses*.

Where a Man may aver another Consideration than that which is comprised and expressed in the Deed, or not. See Tit. *Averments*.

Where Power to revoke Uses shall be void against Purchasers of good Faith, and upon good Considerations. See Tit. *Revocation*.

*Consimili casu.*

Writ of Entry in *Consimili casu*, in what Case it lies, and for whom, and contrary. B. 8. 48, 49. b. 11. 80. See Tit. *Entry*, and *Writs of Entry*, and *Statutes*, W. 2. c. 24 there.

Conspiracy.

In what Place and County the Writ of Conspiracy shall be brought. B. 7. 1. See Tit. *Writ*.

Where Conspiracy lies not, unless he be by lawful Manner acquitted; where acquitted upon a void Inditement. B. 4. 45. b. 9. 26, 56.

Where Conspiracy lies against Inditors, or not, and what shall be a good Bar in Conspiracy against them. B. 9. 26, 56.

What Evidence given, or Information made, shall not be Conspiracy, and what shall be a good Bar upon it, what not. B. 4. 16. See Tit. *Enditement*.

Where and how Confederacies and Conspiracies shall be inquired of, and punish'd, without a Writ of Conspiracy. B. 9. 56, 57.

What Justices may inquire of Confederacies and Conspiracies. B. 9. 56. See Tit. *Justices of Oyer and Terminer*.

Of Conspiracies and Confederacies amongst Artificers, and how to be punish'd. See Tit. *Statutes*, and there 2 *El.* 2. c. 15.

Where a Writ of Conspiracy lies upon Conspiracy alone, without putting it into Action. B. 9. 56, 57.

Constables.

The Authority of a Constable. See Tit. *Authority*, and *Justification*.

Bar in false Imprisonment against a Constable, and what shall be good. See Tit. *False Imprisonment*, and *Justification*.

Consultation.

Where Consultation shall be granted upon Suit in Court Christian for Tithes, or not. B. 2. 43, 44, 45, 47, 48. b. 4. 75. b. 5. 9, 13, 14. b. 7. 44. b. 11. 8, 9, 16. See Tit. *Attachment upon a Prohibition*, and *Tithes*.

Where Consultation shall be granted upon Suit in the spiritual Court, to reverse Espousals, or make them of Force. B. 7. 44.

Where Consultation shall be granted upon Suit in the Spiritual Court for a Devise, &c. where the Issue is upon a Thing temporal as Heir, or not Heir, or such like, or not. B. 4. 17. b. 7. 44.

Where Consultation shall be granted upon Suit in Court Christian, for a Devise, or Legacy, or for Disturbance of Execution of a Devise, or not. B. 5. 11. b. 6. 23. See Tit. *Prohibition*.

Where a Consultation shall be granted upon Suit in Court Christian for Defamation and Slander, or not. B. 4. 17, 20. b. 5. 9. 2 p. 51. See Tit. *Action upon the Case*.

Where Consultation shall be granted upon Suits in the Court Spiritual for Monies, or other Things concerning Matrimony, or not. B. 5. 9.

Where Consultation shall be granted upon Suit in Court Christian for a Mortuary. B. 5. 9. See Tit. *Mortuary*.

Where Consultation shall be granted upon Suit in the Court Spiritual, for laying violent Hands upon a Priest, or beating him, or not. B. 4. 20. b. 5. 13, 14. 2 p. 51.

Where Consultation shall be granted upon Suit in Court Christian for Monies which concern not Matrimony. B. 5. 2 p. 51, 66, 67, 68.

Where Consultation shall be granted upon Suit in Court Christian, for Duries of the Church subtracted. B. 5. 2 p. 72, 73. See Tit. *Action of the Case*.

Where Consultation shall be granted for Suit in Court Christian, for Reparation of a Church, or for Monies taxed to the Reparation of a Church. B. 5. 2 p. 67, 68.

Where Consultation shall be granted upon Suit in Court Spiritual for Damages, or Cofts recovered there, or not. B. 4. 20. b. 5. 13, 14.

Where Consultation shall be granted upon Suit in Court Christian for Tithes against the King's Tenant, or not. B. 2. 44. See Tit. *Tithes*.

Where Consultation shall be granted upon Suit in Court Christian, for not celebrating Divine Service, or not.

*Constat. Contempt. Continuance. Continual Claim.*

not. B. 5. 2 p. 72, 73. See Tit. *Action of the Case*,

Where Consultation shall be granted for Part, or Parcel, or not. B. 6. 23. See Tit. *Prohibition*.

*Constat.* See Tit. *Exemplifications*.

*Contempt.*

In a Sheriff for not certifying, or removing a Record out of the County-Court. B. 4. 33.

For pursuing a Suit in Court Christian after Prohibition delivered, or &c. See Tit. *Attachment upon Prohibition*.

In a Bishop, and where his Temporalities shall be seized into the King's Hands for his Contempt. B. 5. 12, 13. b. 8. 68. See Tit. *Quare non admittit*.

For shewing forth the Pope's Bulls, and how punishable. B. 5. 15, 16.

In him who arrests a Man in another Court, after he has impleaded in another Court before, &c. and how to be punished. B. 8. 60. See Tit. *Fine to the King*.

Where the Contempt supposed in the Attachment upon Prohibition shall be traversed. B. 2. 43.

In going out of the Kingdom without the King's Licence, how punishable. B. 2. 17.

What shall be a good Excuse of a Contempt, and where a Man shall not be charged without Notice, and what shall be sufficient Notice, and what not. B. 2. 43.

Of Fines to the King for Contempt. B. 8. 60. See Tit. *Fines to the King*.

Of Imprisonment for Contempt. See Tit. *Imprisonment*.

*Continuance.*

Form of Entry of Continuance in the King's Bench upon Continuance. B. 5. 2 p. 75. See Tit. *Emparlanca*.

*Continual Claim, and Claim.*

Where and how continual Claim, to vest an Estate in Lands, shall be

made, where upon the Land, where not; and what shall be sufficient Claim, what not. B. 2. 54. b. 3. 84, 85, 86.

Where continual Claim must be from Year to Year, and how the Year shall be accounted. B. 1. 97. b. 8. 100.

Where continual Claim made by one Person, shall advantage another or not. B. 9. 106.

Where continual Claim made by a Servant, or by Command, shall be good, or not. B. 9. 106.

Within what Time Claim is to be made upon Fines levied of Lands, or &c. by Strangers who have Right, and where Laches of Claim shall bar them, or not. B. 1. 97. b. 2. 93, b. 3. 77, 78, 79; 87, 90, 91. b. 4. 11, 12. b. 5. 2 p. 107, 123, 124. b. 8. 100. b. 9. 105, 106. b. 10. 49, 99. See Stat. 4 H. 7. c. 24. and *Averments*.

Where Laches of Claim upon a Fine levied by Grant and Render, shall not prejudice the Party, who &c. B. 3. 90. b. 8. 100.

Where Laches of Claim shall not prejudice the Issue in Tail, or him that claims an Estate in Tail. B. 3. 87. See Tit. *Laches*.

Where Laches of Claim upon a Fine levied, &c. shall bar an Infant, or not; and what Time he shall have to claim. B. 3. 91. b. 8. 100, 101. See Tit. *Statutes*, 4 H. 7. c. 24.

Where a Woman Covert shall be barred of her Right upon a Fine levied, what shall be Laches to Claim, or not, and what Time she shall have to claim. B. 3. 91. b. 8. 100, 101. See Tit. *Stat.* 4 H. 7. c. 24. there, and *Laches*.

Where a Man imprisoned shall be barred of his Right upon a Fine levied of Land, and his Laches to Claim, shall bind him, or not. B. 3. 91. b. 8. 100, 101. See Tit. *Statutes*, 4 H. 7. c. 24. there, and *Laches*.

*Claim. Contra formam collationis. Contra formam feoffamenti. Contract.*

Where Laches of Claim by a Man over Sea, and out of the Realm, upon a Fine levied of Land, shall bar him of his Right, or not; and what Time he shall have to make his Claim. B. 3. 91. b. 4. 125. b. 8. 100, 101. See Tit. *Stat.* 4 H. 7. c. 24. there, and *Laches*.

Where Laches of Claim upon a Fine levied, shall bar a Man of un-found Memory, or not, and what Time he shall have to claim. B. 3. 91. b. 8. 100, 101. See Tit. *Statutes*, 4 H. 7. c. 24, there.

Where Non-Claim by a Lunatic shall not prejudice him, to take away his Entry upon Discent. B. 3. 91. b. 4. 125. b. 8. 100, 101.

Where and what Things shall be vested in him that has Right, without Entry, or Claim, where, and what not. B. 1. 94. 97. b. 2. 53, 54. b. 3. 84, 85, 86. b. 4. 53. See Tit. *Condition*, and *Entry Congeable*.

Where and what Things shall be vested in him who has Right presently by Claim, and the Possession adjudged in him without other Circumstance. B. 1. 85, 94, 174. b. 3. 84, 85. b. 6. 68. See Tit. *Entry Congeable*.

Where and what Things of a Villain the Lord shall have by Claim, and what he shall not have, nor be adjudged in Possession of, without Entry, or Seifure, and what shall be sufficient Claim, what not. B. 2. 54. b. 6. 68.

Where, and within what Time Claim ought to be made upon a Judgment in a Writ of Right, or Fine levied at the Common Law. B. 1. 96, 97. b. 3. 100, 101.

Where, and within what Time Claim ought to be made to prevent a Discent in Lands. B. 5. 2 p. 107. b. 8. 100. See *Discent*, and *Computation*.

Where, and within what Time Claim ought to be for Waif and Stray by the Owner. B. 5. 2 p. 107. See Tit. *Waif*, and *Stray*.

Where, and within what Time the Owner ought to claim Goods wrecked. B. 5. 2 p. 107. See Tit. *Wreck*.

Where Claim shall make Discei-

sin, and a Man be a Disseisor against his own Claim. See Tit. *Disseisin*.

Where Entry, or Claim of the Husband shall vest the Estate in the Wife, or remit her, or not. See Tit. *Baron and Feme*.

Where a Villain shall be infranchised, for abiding a Year and a Day in antient Demain without Claim of the Lord. See Tit. *Villanage*.

Where Tenant for Life, or Years shall forfeit his Estate by Claim of another and greater. See Tit. *Forfeiture*.

Where a Man, or Woman shall be judged in Lands, or *&c.* according to their Claim in Pais, or no. See Tit. *Remitter*.

*Contra formam collationis.*

Where and for whom it lies, and against whom, and for whom not. B. 6. 68. b. 8. 170.

*Contra formam feoffamenti.*

Where, and for whom, and against whom this Writ lies; where and for whom, and against whom not. B. 4. 11. 121.

*Contract.*

Where Property of Goods shall be changed and altered from the Owner by Contract, Bargain, and Sale in a Market by a Stranger, or what not. B. 3. 78, 83. b. 5. 2 p. 83. See Tit. *Collusion*.

Where Contract shall be gone, and determined, by accepting an Obligation for the same Debt, or not. B. 6. 45. See Tit. *Extinguishment*.

Where Contract shall be gone, determined, and extinguished by Recovery, or Bar in Action another Time in a Court of Record. See Tit. *Extinguishment*.

Where a Contract, and Debt upon it, be it personal, or real, shall be apporportioned, or not. See Tit. *Apporportionment*.

Where and what shall be a naked Pact, upon which no Action lies, and what

what shall be a sufficient Consideration to make a good Contract, or Assumpsit. See Tit. *Action of the Case*.

Where a Contract made by an Infant, shall be good, and bind him. See Tit. *Infant*.

Where a Contract, or Sale of Trees by Tenant in Tail shall bind his Issues after his Death, or not. See Tit. *Gift, and Sale, and Wood*.

How a Contract, or Sale of Things not in Possession, but which by Possibility might be had, shall be good, or not. See Tit. *Grants, and Things in Action*.

By Contract of all Goods and Chattels, what Thing will pass, what not. See Tit. *Gift*.

Bar in Debt upon Contract, and what shall be good. See Tit. *Debt*.

Where Contract in Market open shall be void, because of Covin. See Tit. *Collusion*.

Where, and against whom Debt upon Contract lies, and against whom not. See Tit. *Assignee, and Debt*.

Where Payment in Debt upon Contract is no Plea without Acquittance. See Tit. *Acquittance*.

Of Trees sold by the Lessor during the Lease, where good, and how. See Tit. *Woods, and Property*.

How a Contract, Part whereof is to be performed over Sea, shall be tried. See Tit. *Over the Sea*.

#### Contribution.

Where one Feoffee, or Recognisor shall have Contribution against the others. B. 3. 12, 13. See Tit. *Audita Querela*.

Where the Heir of the Recognisor shall not have Contribution against the Feoffees of the Recognisor, B. 3. 12, 13. See Tit. *Heir, and Debt*.

Where Contribution shall be among Parceners for Suit to Court, or &c. See Tit. *Partition, and Parceners*.

For Reparations of a Church, or &c. how to be made, and levied. See Tit. *By-laws*.

Where Tenant in Dower shall be contributory to the Heir for the Ser-

vices which he does. See Tit. *Dower*.

Where Contribution shall be of the Lands of every Lord where the Heir is vouched in the Ward of divers. See Tit. *Recovery in Value*.

Where Contribution shall be, and the Lord shall not have all the Services of one Tenant, but every one shall hold of him for his Part. See Tit. *Avowry, and Apportionment*.

Of Hundreds, to satisfy the Debt of him who was robbed, and how it shall be done. See Tit. *Hue and Cry*.

Of Vouchers, one alone shall not render in Value, but every one according to his Portion. See Tit. *Recovery in Value, and Voucher*.

Where the surviving Joint Obligor, or Recognisor shall be charged with the whole Debt, and have no Contribution, and contrary. See Tit. *Execution*.

#### Conusance of Plea.

To hold Pleas claimed by the King's Grant. B. 5. 9, 10.

Not to be granted, or allowed where he is a Party. B. 8. 118. See Tit. *Agent, and Patient*.

#### Copyhold.

Where Copyholder may enter without Admittance, and to what Intents he shall have Possession without Admittance, and where Admittance shall be sufficient for all, or not. B. 4. 21, 22, 23, 28. b. 9. 107.

Where Admittance of a Copyholder out of the Manor, or Court shall be good, or not. B. 4. 26, 27.

Where Admittance by the Lord of the Copyholder in another Manner, who accords to the Surrender, shall be good; and how to enure. B. 4. 25, 28, 29.

Where and what shall be sufficient Possession and Seisin of a Copyhold to make the Sister, or Uncle Heir, what not. B. 4. 21, 22. See Tit. *Discent*.

Where a Grant and Admittance to a Copyhold shall be good, and stand, &c. notwithstanding Imperfection in the Lord Steward, Lord for the Time,

or Disseisor, or not. B. 1. 120, 140. b. 4. 21 to 27, 30, 31. b. 8. 65.

Deed of Entry of Admittance of a Copyhold in the Rolls of the Court, and where an Estate shall pass according to the Admittance, which varies from the Surrender, or not. B. 4. 25, 28, 29.

The Form of Pleading in making Title to a Copyhold by Custom of a Manor, what shall be good, and Time sufficient to make a Copyhold, what not. B. 4. 21, 22, 31. See Tit. *Limitation*.

Where Surrender and Admittance to a Copyhold out of the Court shall be good, by whom, and by whom not. B. 4. 26, 27.

Where Surrender of a Copyhold out of Court, and Admittance after in full Court shall be good, or not. B. 4. 25, 29. b. 5. 2 p. 114.

Where Surrender, or Grant of a Copyhold by him who has neither Manor nor Court Baron at the Time, &c. or a Court only without a Manor shall be good, or not. B. 4. 24, to 27.

Which are good Customs of a Copyhold, and what Surrenders, Grants, or &c. shall be well warranted by the Custom, what not. B. 3. 8, 9. b. 4. 23, 30, 31. b. 8. 99.

Where Surrender of a Copyhold may be countermanded by the Party himself, and what Act collateral, without Assent and Privy of the Party, shall be a Countermand, what not. B. 4. 23, 25, 29, 30. b. 5. 2 p. 84.

Where a Copyhold shall be extinguished and destroyed for ever, and by what Acts, or not; but being suspended, &c. shall become Copyhold after by Grant, &c. or &c. B. 2. 17. b. 4. 24 to 27, 31. b. 6. 37. b. 7. 39. b. 8. 64, 99, 100. b. 9. 104, 107.

Where the Surrender of the Husband of the Copyhold of his Wife is no Discontinuance to the Wife, but that she may enter. B. 4. 23.

Where and what Fine shall be paid for a Copyhold to the Lord, and how it shall be assessed and paid, and where he shall have several Fines, or

not. B. 4. 22, 27, 28. b. 8. 99. b. 9. 107. b. 11. 44.

Where an Estate in Copyhold Land cannot pass by any other Way but by Surrender, and where contrary. B. 4. 21, 24, 25.

Where and what shall be good Cause to forfeit a Copyhold, what not. B. 4. 21, 23, 25, 27, 28. b. 8. 92, 99, 100. b. 9. 107. b. 10. 131.

Where and for what Cause of Forfeiture of a Copyhold the Lord may enter, and seize, without Presentment of the Homage, or upon what not. B. 8. 99, 100.

Where the Copyholder shall hold Land granted by the Lord charged with Rent, or &c. granted by the Lord before, or be liable to the Lord's Statute, &c. or not. B. 4. 23, 24, 27. b. 8. 63. b. 9. 107.

Where the Issue may enter after Surrender, or Lease (by Licence of the Lord) made by the Ancestor, and it shall be no Discontinuance. B. 3. 9. b. 4. 22, 23.

Where an Estate in Tail shall be of a Copyhold, or not. B. 3. 8, 9. b. 4. 22, 23. See Tit. *Statute*, W. 2. c. 1. there, and *Formedon*.

Where and what Statutes extend to Copyhold Land, and within which is Copyhold Land contained by Construction of Law, without Words express, within which not. B. 3. 8, 9. b. 4. 22, 23, 26. b. 6. 37. b. 7. 39. b. 9. 105.

How, and in what Place and Court the Copyhold of an Ideot shall be ordered. B. 4. 126. See Tit. *Idiot*.

What Remedy for the Copyholder, if the Homage present not the Surrender made to them, or present it in another Manner, and what Remedy against the Lord, if he will not admit the Copyholder. B. 4. 25, 26, 27, 29, 30. b. 5. 2 p. 114.

Where the Copyholder shall have an Action of Trespass against his Lord, or not. B. 2. 17. b. 4. 21, 22. b. 9. 76.

Where a Copyholder shall have an Action of Trespass against a Stranger, and what Damages he shall recover. B. 4. 21, 26, 31.

Where

Where a Writ of false Judgment lies not for a Copyhold. B. 4. 21. 30. See Tit. *False Judgment*.

Where a Writ of Right close lies not for Tenant by Copy of Court-Roll at the Will of the Lord. B. 4. 21.

Where Tenant by Copy of Court-Roll may waite, or not, and how he shall be punished for it. B. 4. 25, 27. b. 5. 2 p. 13. b. 8. 63. See Tit. *Waste*.

Where Copyhold Land may be surrendered by Attorney. B. 9. 75, 76.

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be good against the Successor, or not. See Tit. *Abbot*, and *Confirmation*.

Where a Lease by Dean, or Dean and Chapter, or Bishop, shall be void in the very Fact by Death, or not, but shall be made good by Acceptance. See Tit. *Leases*, and *Acceptance*.

Where and what Chattels the Successor of a Dean, or Dean and Chapter shall have after the Death of the Predecessor, what not. See Tit. *Abbot*, *Chattels*, *Executors*, and *Corporations*.

Of Appropriation of a Church to a Dean and Chapter, how it shall be done, and where good. See Tit. *Appropriation*.

Elections of a Dean, and how they shall be made. See Tit. *Election*.

The Foundation of a Dean and Chapter, &c. and how they are founded and incorporate. See Tit. *Corporation*, *Grant of the King*, and *Founders*.

The Form of Pleading in alledging Seisin of Rent, where, &c. he shall say, Seized in Right of his Deanery, or &c. See Tit. *Corporation*, and *Pleading*.

Where a Writ or Process shall be directed, and awarded to a Dean and Chapter, in the Vacancy of the See of the Bishop, or not. See Tit. *Writ to the Bishop*, and *Ordinary*.

Where Excommunication certified by the Dean and Chapter shall be good. See Tit. *Excommunication*.

Death, and Life.

Where a Lease for Years is void *ipso facto* by Death of the Lessor, or so, or by other Means, or not, but voidable by Entry. B. 1. 51, 153, 154. b. 2. 77. b. 3. 60, 65. b. 5. 2 p. 3. b. 7. 8. See Tit. *Leases*, and *Acceptance*, *Entry* *Congeable*, and *Condition*.

Where Discontinuance of Process is by Demise, or Death of the King. B. 7. 29, 30. See Tit. *Discontinuance of Process*, and *Statutes*, 1 E. 6. c. 7. *Re-attachment*, and *Resummons*.

Where Mainprise in Action shall be discharged by Demise and Death of the King. B. 11. 38. See Tit. *Mainprise*.

Where Death of a Stranger to the Writ abates it. B. 7. 29, 30.

Where Judgment shall be given, and good, notwithstanding the Plaintiff or Demandant, or Tenant or Defendant be dead at the Time of the Judgment. B. 1. 102, 106. See Tit. *Judgment*.

Where Falsifying of Recovery is, because the Tenant, or Defendant in the Action was dead at the Time of the Judgment given. See Tit. *Falsifying of Recovery*.

Where Issue shall be taken upon Descent, and dying seized. See Tit. *Issues joined*.

Where a Writ of Escheat lies, yet the Tenant dies not seized. See Tit. *Escheat*.

Where Tenant in Mortdancestor upon Plea in Bar ought to traverse the Dying seized, or not. See Tit. *Mortdancestor*.

Where and what Dying seized is sufficient to maintain an Affize of Mortdancestor, what not. See Tit. *Mortdancestor*.

Where he that has Right may enter, notwithstanding Death, and dying seized. See Tit. *Entry* *Congeable*.

What is sufficient dying seized of the Brother to make the Sister of the whole Blood Heir, and Rebutt the Brother of the Half-blood. See Tit. *Discent*.

Where a Writ shall be purchased by Journies Accounts upon Death, or not. See Tit. *Journies Accounts*.

Where no Execution shall be against the Heir, or Executor out of Judgment after Death of the Party. See Tit. *Execution*.

Where Attornment is good, notwithstanding the Death of the Grantor, or Grantee. See Tit. *Attornment*.

Where Heir shall have and maintain an Action after the Death of his Ancestor, or not. See Tit. *Heir*.

Where the Executor shall have and maintain an Action after the Death of his Testator, or not. See Tit. *Executor*.

Where the Death of a Man is not Homicide. See Tit. *Crown*.

Where

Where the Death of a Man is Murder. See Tit. *Crown*.

Where a Woman shall have an Appeal of Death, and of the Death of whom. See Tit. *Appeals*.

Appeal of Death, &c. by the Heir, and who shall be said Heir to have an Appeal. See Tit. *Appeals*.

Within what Time Appeals of Death ought to be begun, &c. See Tit. *Appeals*.

Where dying seized of a Bastard makes his Son or Daughter Heir, and what is sufficient dying seized, what not. See Tit. *Bastardy*.

Where Divorce may be after the Death of the Parties, and of what Effect it shall be. See Tit. *Bastardy*, and *Divorce*.

Where a Condition upon a Grant of Rent, or &c. that if the Grantee dies his Heir within Age, the Rent shall cease, is good. See Tit. *Condition*.

Where and what Chattels, Debts, or &c. coming to the Husband by Marriage, or &c. the Wife shall have after the Death of her Husband, what not. See Tit. *Baron and Feme*.

Where and what Chattels, or &c. coming to the Husband by Intermarriage shall he have after the Death of the Wife. See Tit. *Baron and Feme*.

Where and what Chattels Executors shall have after the Death of their Testator, what not; but the Heir shall have. See Tit. *Chattels, Executors, and Heir*.

Where a Man shall be excused, because he had no Notice of the Death of a Stranger by whom he claims, &c. See Tit. *Notice*.

Where and to what Intents a Man may have an Heir in his Life-time, to what not. See Tit. *Heir*.

Where the Death of him that is summoned and severed abates the Writ, or not. See Tit. *Severance*.

*Decies tantum.*

Count in *Decies tantum*. B. 8. 36, 37.

What Verdict shall be good in *Decies tantum*. B. 10. 116.

Where *Decies tantum* shall be an Action popular, when an Action particular to the Party who tues, &c. See Tit. *Action popular*.

Bar in *Decies tantum*, and where the King's Charter shall bar the Party, or contrary. See Tit. *Action popular*, and *Charter of the King*.

*Decrees.*

How Decrees in the Court of Chancery, or Exchequer-Chamber shall bind. See Tit. *Courts*.

*Deeds.*

What Writing shall be good and sufficient to make a Deed, and where it shall be void and suspicious by Rasure, interlining a new Writing, &c. B. 5. 2 p. 23, 119. b. 10. 92. b. 11. 27. See Tit. *Obligation*.

Where a Deed without Date shall be good, and if the Date is false, or impossible, and how a Man shall take Benefit of it by Way of Count, or &c. B. 2. 5.

Where a Man shall say The Deed was delivered another Day than that on which it bears Date. B. 2. 4, 5. b. 5. 2 p. 117.

Where a Deed shall have two Deliveries, &c. B. 3. 35. b. 5. 2 p. 75, 84, 119. b. 9. 137.

Where Deed may be delivered as an Escrow to be delivered over, and where it shall be good by the first Delivery without another, or not. B. 5. 35. b. 5. 2 p. 75, 84, 119. b. 9. 137. See Tit. *Debt*.

How and to what Time Deeds shall have Relation by their Delivery, to what not. B. 2. 5. b. 3. 35, 36. b. 5. 2 p. 75, 84. See Tit. *Countervmand*.

Where a Deed shall become void by breaking the Seal, or Rasure, &c. B. 5. 2 p. 23, 119. See Tit. *Debt*, and *Obligation*.

Where the Seal of a Deed shall be good and sufficient, and the Sealing of many by one Seal shall make it the Deed of all. B. 2. 3. b. 5. 2 p. 23.

Where



Where the Deed shall be good without the Words, In Testimony of which, &c. B. 2. 4, 5.

Where, how, and when a Man illiterate shall be bound to deliver a Deed, and obliged by it. B. 2. 3, 9.

Where a Deed shall be void for the Uncertainty, and because it wants Entendment. B. 1. 85. b. 5. 2 p. 121. b. 8. 56, 154, 155. See Tit. *Obligation*.

Where a Deed shall be void for false and incongruous Latin, or not. B. 5. 2 p. 121. b. 9. 47, 48. b. 10. 133. See Tit. *Falſe Latin*.

Where a Deed shall be void in Part, and stand in Part, or void against one, and good against another. B. 5. 2 p. 23, 119. b. 10. 86, 87. b. 11. 27.

Where the *Habendum* in Deeds shall be good, where void, and where the Estate in the Premises of a Deed shall be changed, abridged, or enlarged by it. B. 2. 23, 52, 55. b. 5. 2 p. 7, 8, 94. b. 6. 36. b. 8. 56, 93, 154. b. 9. 47.

Where a Deed made to one, and delivered to another to his Use, shall not be said a Deed, till he to whose Use agree, or disagree. B. 3. 35, 36. b. 5. 2 p. 119. See Tit. *Agreement*.

Where and what Deed shall be said a Deed indented, what not. B. 5. 2 p. 20. See Tit. *Indenture*.

Where a Stranger to a Deed shall take Avail by a Deed made to another, and have an Estate by it, and how, or not. B. 1. 127. b. 5. 2 p. 71.

Where and when a Deed shall be condemned, or cancelled, or not. B. 5. 2 p. 74, 75. b. 6. 45.

Where a Deed pleaded shall remain in the Court, and where it shall be delivered again to the Party. B. 5. 2 p. 74, 75. b. 6. 45.

Where the Deputy of an Office cannot be without Deed. B. 9. 51.

Where a Man may plead a Feoffment, Grant, Release, Confirmation, or &c. by the Name comprised in the Deed, though he be misnamed, and in Truth he have another Name, or not. B. 10. 57, 107, 122 to 126. See Tit. *Misnaming*.

Where a Man in pleading may say not his Deed generally, or plead the special Matter, and conclude, and so not his Deed. B. 2. 3, 4, 5, 9. b. 5. 2 p. 23, 119. b. 9. 137.

Where the Words (If it happen) or other Words of Condition in a Deed shall be good, and change the Estate limited by the Premises, or not. See Tit. *Condition, Repugnant, and Tail*.

Where Warranty in a Deed shall neither amend, nor enlarge the Estate given by the Premises. See Tit. *Warranty*.

Where a Deed made before Time of Memory shall be good, &c. or not. See Tit. *Trial, and Grant of the King*.

What shall be good Evidence upon Issue, not his Deed. See Tit. *Evidence*.

Where Command by Word without a Deed shall be good, or not. See Tit. *Commandment, Corporation, and Monſtrance of Deeds*.

Where Licence by Words without Deed shall be good. See Tit. *Licence*.

Where Partition without Deed shall be good, and Reservation of Rent upon Partition for Equality of Partition without Deed shall be good. See Tit. *Partition*.

Where Affignment of Dower, of Assent of the Father, Mother, or &c. shall be good without Deed, or not. See Tit. *Dower*.

Where Feoffment of Lands shall be good, tho' the Lands be out of View. See Tit. *Feoffment*.

Where Exchange shall be good without Deed. See Tit. *Exchange*.

Where a Man shall plead in Bar in Action of Debt upon an Obligation, Matter in Deed, against Specialty, without shewing a Deed, and what Matter. See Tit. *Debt, and Audita Querela*.

Where a Deed belongs to the Heir, where to the Executors, and Land-Tenant. See Tit. *Charters, and Detinue*.

Where more or less passes by the Deed of Feoffment than is comprised in the Deed, and where the whole by the Livery, and not by the Deed. See Tit. *Feoffment*.

Where

Where *Recitat* in the Deed shall make it good, and without it the Deed is not good, &c. See Tit. *Grants, Grants of the King, and Estoppel.*

Where a Man shall take Avail of a Deed by way of Feoffment, Grant, Release, or Confirmation at his Choice, and by what Words within a Deed. See Tit. *Election.*

Where a Count simple upon a Deed without speaking of the Condition where the Deed is conditional is good, or not. See Tit. *Count.*

Where *Estoppel* shall be by Deed poll, or Deed indented, and where a Stranger shall estop the Parties, or Privies to the Deed, and contrary. See Tit. *Estoppel.*

Of Deeds inrolled, and the whole Matter concerning them. See Tit. *Enrolment.*

Of a Deed of Obligation, and the Matter concerning it. See Tit. *Obligation.*

Of Deeds of Releases. See Tit. *Releases.*

Of Deeds of Confirmation. See Tit. *Confirmation.*

Of Deeds which concern Warranty. See Tit. *Warranty, Warranty of Charters, Counterplea of Warranty and of Voucher, and Voucher.*

Of Deeds of Defeasance. See Tit. *Defeasance.*

Where a Joint Deed made by two, or more, may become several by Words subsequent, or not. See Tit. *Exposition, Grants, and Annuity.*

Where a Man shall take Avail of a Deed without shewing it. See Tit. *Monstrance of Deeds.*

Where a Deed shall be avoided by Durefs. See Tit. *Durefs.*

Where a Deed shall be avoided by Infancy. See Tit. *Infant, and Corporation.*

Where a Deed shall be avoided, because of unsound Memory, by what Person, and by what not. See Tit. *Dum non compos mentis, and Ideot.*

Where a Deed shall be avoided, because of Coverture. See Tit. *Baron and Feme.*

Where the Delivery of a Deed shall

be countermanded. See Tit. *Countermand.*

Certain Rules and Observations for Construction of Deeds. B. 1. 95, 100. b. 2. 35, 55, 71. b. 4. 81. b. 5. 2 p. 7, 8, 28, 56. b. 6. 33, 36, 64. b. 7. 23. b. 8. 94, 154. b. 9. 47, 48, 52, 53. See Tit. *Entendment, and Assurances.*

### Defamation.

Where Action of the Case lies and shall be maintained upon Defamation, and upon what Words, where, and upon what not. See Tit. *Action of the Case, and Stat. 2 R. 2. c. 5.*

Where Prohibition lies and shall be granted upon a Suit in Court Christian for Defamation and Slander, or not. See Tit. *Prohibition.*

Of Action for Slanders of Peers, and the Exposition of the Statutes which concern it. See Tit. *Action upon Statutes, W. 1. c. 33. and 2 R. 2. c. 5. there.*

### Default, and Appearance.

Where the Default of one Defendant is the Default of both, or of all, or not. B. 6. 25. b. 5. 2 p. 75.

Where in Action against the Husband and Wife the Default of the Wife shall be the Default of the Husband, or not. B. 5. 2 p. 75. See Tit. *Baron and Feme.*

Where in Action against Executors the Default of one shall be the Default of both, or all. See Tit. *Executors.*

Where the Vouchee may appear gratis, and be received to enter in the Warranty, and counterplea the Lien, or not. See Tit. *Voucher.*

Of Appearance by Attorney, and where, and in what Cases the Plaintiff, or Defendant may appear by Attorney. See Tit. *Attorney.*

Where Default shall be in departing in Despight of the Court, and what shall be Departing in Despight of the Court. See Tit. *Departing in Despight of the Court.*

Where

## Defeasance. Degrees. Delay.

Where Judgment final shall be given in a Writ of Right upon Default of the Tenant, or Vouchee. See Tit. *Right*.

Where a Recovery had upon Default or Render shall be falsified, and by whom. See Tit. *Falsifying of Recovery*.

Where a Writ of Disceit lies upon a Recovery by Default. See Tit. *Disceit*.

Where a *Quod ei desorceat* lies not upon a Recovery by Default, and in what Writs. See Tit. *Quod ei desorceat*.

Where Resceit shall be granted to a Wife upon Default of her Husband, or to him in Reversion upon Default, or *&c.* of Tenant for Life, or to the Lessee for Years, or *&c.* upon Default, or *&c.* of Tenant in Fee, or *&c.* See Tit. *Resceit*.

Of *Retraxit* upon Default of the Plaintiff, and the whole Matter concerning it. See Tit. *Retraxit*.

Where Execution shall be awarded upon Default after *Nihil* returned upon the first *Scire facias*, or not. See Tit. *Execution*.

Where the Defendant in *Premunire* shall be attainted, and Judgment given against him upon Default, or not. See Tit. *Premunire*.

Affize awarded upon Default, and the Consequence of it. See Tit. *Affize*.

Writ of Waste awarded upon Default to inquire of Waste, and the Consequence of it. See Tit. *Waste*.

Where and what Day the Jurors shall be demanded and amerced if they make Default. See Tit. *Amercement*, and *Demand*.

### Defeasance.

Where Defeasance shall avail as a Release to discharge Debts, Covenants, or *&c.* and shall be pleaded in Bar to avoid Circuitry of Action. B. 1. 113. See Tit. *Circuitry of Action*.

Where Defeasance shall avail as a Condition to avoid an Estate in Lands. B. 2. 71, 74. b. 4. 9.

Where Defeasance after Execution shall avoid Execution, and the Statute

and Recognisance upon which, *&c.* B. 6. 13.

Where a Defeasance, Release, or *&c.* made by the Head of a Corporation only shall bar the Successor, and whole Corporation for ever. See Tit. *Corporation*, and *Abbot*.

Where a Stranger to the Deed of Defeasance shall have Avail by it, and plead it. See Tit. *Deeds*.

Where a Defeasance, or other Matter may be pleaded in Bar by Force of a Deed without shewing it, or not. See Tit. *Monstrance of Deeds*.

### Degrees.

Where Entry shall make a Degree to have a Writ of Entry in the *per*, or *per & cui*, or not. See Tit. *Entry*.

Where and what Release shall make a Degree, *&c.* and he to whom the Release is made, be supposed in the *per*, by him who released, or not. See Tit. *Release*.

### Delay.

Where Judgment may be delayed and respited by Discretion of the Court. See Tit. *Office of Courts*, and *Judgment*.

Where the Justices ought not to delay Justice to the Subjects, neither for the Privy Seal, nor other Seals of the King. See Tit. *Statutes*, 2 E. 3. and 29 E. 3. and *Superseas*.

How, and in what Manner Homage to be made by the Heir upon Livery may be respited. See Tit. *Livery*.

Where it shall be in the Discretion of the Justices to stay Restitution upon forcible Entry and Traverse, *&c.* See Tit. *Forcible Entry*.

Where is Delay for Age, and Plea demurring. See Tit. *Age*.

Where Delay shall be for Effoin. See Tit. *Effoin*.

Where Delay shall be for Resceit. See Tit. *Resceit*.

Where Delay shall be for Protection. See Tit. *Protection*.

Where Delay shall be for Writ of Error. See Tit. *Error*.

Where

Where Delay shall be for Attaint.  
See Tit. *Attaint*.

*Demands, and Demandable.* See Tit. *Request*.

Double in Deed and Law. B. 8. 153, 154.

The Order to be observed in Demands by *Præcipe quod reddat*, or *Æc.* and where a Writ or Plaint shall not abate for Want of Form, or contrary. B. 4. 39, 87. b. 11. 55, 82.

Where a Demand by *Præcipe quod reddat* lies not against the King. B. 4. 55. b. 6. 51. See Tit. *Petition, and Prærogative*.

Where a *Præcipe quod reddat* lies of a Messuage, or House, and where they shall be recovered by Demand of Land. B. 4. 87.

Where a *Præcipe quod reddat*, or Plaint in Assize shall be of a Mill. B. 4. 87. See Tit. *Assize, and Dower*.

Where a *Præcipe quod reddat* lies not of Tithes. B. 11. 25. See Tit. *Tithes, and Statutes*, 32 H. 8. c. 7.

Where a *Præcipe quod reddat* lies of an Advowson, or not. B. 2. 74. b. 5. 2 p. 4. 40. b. 11. 40. See Tit. *Advowson*.

Where a *Præcipe quod reddat* lies of Land, and what Things are included and shall be recovered by Demands of it. B. 4. 87. b. 11. 49.

Where a *Præcipe quod reddat* lies of a Manor, and where a Forfeiture needs in it, or not. B. 5. 2 p. 11. b. 11. 47, 49. See Tit. *Manor, and Writ*.

Where a *Præcipe quod reddat* lies of Wood, and how the Demand shall be. B. 4. 87. b. 11. 49. See Tit. *Woods, and Assize*.

Where a Demand by *Præcipe quod reddat* shall be maintained against him in Reversion upon an Estate for Life, or not. B. 8. 151.

Where a *Præcipe quod reddat* lies against Lessee for Years, or Guardian. B. 6. 57. See Tit. *Dower*.

Where a Demand by *Præcipe quod reddat* shall be in the Disjunctive. B. 2. 37. b. 5. 2 p. 22, 40.

Where a Demand by *Præcipe quod reddat* shall be of Offices, and how, &c. B. 8. 47. See Tit. *Assize, and Plaint*.

Where a Demand by *Præcipe quod reddat* shall be of a Moiety, Third, Fourth Part, or *Æc.* B. 3. 1. See Tit. *Dower, and Advowson*.

Where one Joint Demand by *Præcipe quod reddat*, or Plaint in Assize shall be of many Things of several Natures, or not. B. 8. 47. See Tit. *Writ*.

How a Demand by *Præcipe quod reddat*, or Plaint in Assize shall be of Rents, or *Æc.* issuing out of Lands in two Counties. B. 4. b. 7. 3. See Tit. *Writ, and Assize*.

Where and against whom a Demand by *Præcipe quod reddat* lies not, but a *Quod permittat*. B. 5. 2 p. 101. b. 8. 46, 47. b. 9. 55. See Tit. *Quod permittat*.

Where Re-entry for a Condition broken upon a Lease for Years, or *Æc.* reserving Rent shall not be good without Demand by the Lessor, or his Grantee, and where, and how to be done, and what Demand shall be good and effectual, what not. B. 1. 139; b. 2. 31. b. 4. 72, 73. b. 5. 2 p. 57; 56, 113, 114. b. 7. 28. b. 10. 129. See Tit. *Condition, and Entry congeable*.

Where the Sheriff after Request to enter an House to make Execution, or *Æc.* may break the House, &c. and not before Demand made. B. 5. 2 p. 92, 93.

Where a Condition is not to be performed without a Request to him that is to perform it, and what shall be sufficient, what not. See Tit. *Conditions*.

Where Issue shall be taken, and joined upon Request. B. 5. 2 p. 25; b. 7. 28. See Tit. *Request, and Tender*.

Where a Demand by *præcipe quod reddat* shall be of Estovers, and how. See Tit. *Assize, and Common*.

Where a Demand by *Præcipe quod reddat* shall be of a Way, and where it lies, or not. See Tit. *Assize, and Way*.

Where *Cessavit*, nor other *Præcipe quod reddat* lies not of Homage, or Fealty.

*Demurrer. Deodands. Departure in Despight of the Court.*

**Fealty.** See Tit. *Cessavit*, and *Homage*.

Where a Demand by *Præcipe quod reddat*, or Plaint in Assize shall be by these Words (With the Appurtenances) or not. See Tit. *Assize*, and *Plaint*.

Where a Demand by *Præcipe quod reddat*, or Plaint in Assize, which demands, or comprehends one Thing twice, or one Thing issuing out of another shall not be good, but abate. See Tit. *Writ*.

Of Dower, and of what Things and Damages shall not be recovered without Demand of Dower. See Tit. *Damages*, and *Dower*.

Where and what Day Jurors shall be demanded and amerced if they appear not, and where they shall be demanded upon Pain. See Tit. *Amercement*, *Fine to the King*, and *Pain*.

Departure in Despight of the Court shall be where the Defendant makes Default the same Term in which he once appeared upon Demand. See Tit. *Departure in Despight*.

Where a Man shall not be non-suited the same Term being demanded, because he has once appeared, but barred by a *Retraxit*. See Tit. *Non-suit*, and *Retraxit*.

Where Denying Rent demanded is Disseisin of Rent, &c. and of what Rents, and what not. See Tit. *Disseisin*.

Where the Lord after Tender and Refusal of Homage cannot distrain after, without new Request. See Tit. *Homage*.

*Demurrer.*

Where and what Things and Matters shall be said confessed by Demurrer in Law, what not. B. 4. 71. b. 5. 2 p. 69, 104. b. 8. 93. b. 9. 110. b. 10. 57, 59, 94.

The Form of special Demurrer, and of what Thing the Party demurring shall have Advantage, of what not. B. 5. 2 p. 74. b. 7. 9. b. 10. 88, 92, 94. See Tit. *Stat. 27 El. 12*.

Where upon Demurrer for Part, or one Defendant, and Issue joined for the other Part, or Defendant, the Issue shall not be tried, nor Process

awarded against the Inquest, until the Demurrer be discussed. B. 10. 59. See Tit. *Trial*.

Where if one Party offer to demur, the other must join in the Demurrer, and cannot refuse. B. 5. 2 p. 104.

Where Repleading shall not be upon Demurrer, where after Demurrer. B. 3. 52.

Upon Evidence and the Form of it. B. 5. 2 p. 104.

Where Demurrer upon Aid, or Counterplea of Aid shall be peremptory, or not. B. 5. 2 p. 111.

Where Demurrer upon Writ, or Bill, or Plea to a Writ, or &c. shall be peremptory, or not. B. 10. 137.

Where upon Demurrer, because the other Party shews no Specialty, it shall be peremptory, or not. B. 10. 88.

Where upon Demurrer the Causes of Demurrer must be shewn, or not. B. 5. 2 p. 74. b. 10. 88, 95. See Tit. *Statutes*, 27 *Eliz. c. 5*.

Where the King shall have the Prerogative to join the Demurrer, and take Issue, and contrary. See Tit. *Prerogative*.

Where a bad Plea shall be made good by Demurrer, or Replication of the other Party, or not. See Tit. *Pleas*.

Where Judgment shall be to the Tenant, or Defendant, to answer over. B. 10. 88, 95.

*Deodands.*

Where Death of a Man is by Casualty, upon which shall be Deodand, and what shall be forfeited as Deodand, what not. B. 5. 2 p. 110. See Tit. *Crown*.

Not to be claimed by Prescription. B. 5. 2 p. 110. See Tit. *Prescription*.

Claimed by Grant of the King. B. 1. 50. See Tit. *Grant of the King*.

The Franchise extinguished by Seisin of the King. See Tit. *Extinguishment*.

*Departure*

*Departure in Despight of the Court.*

Ever of the Part of the Tenant, or Defendant. B. 8. 59.

Ever where the Tenant, or Defendant makes Default, the same Term or Day in which he once appeared. B. 8. 58, 59.

Form of Entry of Departure in Despight of the Court. B. 8. 58, 62.

Nor to be by Attorney. E. 8. 58. See Tit. *Attorney.*

*Denizen.*

Whence called Denizen. B. 7. 18.

*Calvin's Case.*

What Grant of the King shall be sufficient to make a Denizen, what not. B. 5. 2 p. 52, 56. b. 7. 18, 22, 25. *Calvin's Case.*

Grant of the King to a common Person to make an Alien Denizen, not good. B. 7. 25. See Tit. *Grant of the King.*

*Deposition.* See Tit. *Deprivation.*

The Form of Pleading Deposition, Deprivation, Resignation, Profession, or Daresignment. B. 5. 3, 6. b. 7. 43.

Where and what shall be Causes sufficient of Deposition, or Deprivation of an Abbot, Bishop, Vicar, Parson, Prebend, or &c. what not. B. 5. 1 p. 9. 2 p. 58, 102. b. 11. 98.

Where a Church shall be void without Sentence of Deprivation, and where not. B. 4. 75, 76, 79, 90. b. 6. 29, 61. See Tit. *Quare Impedit*, or *Presentation to a Church.*

What Deprivation shall be good and valid, what not. B. 5. 1 p. 3, 4. 2 p. 102. b. 11. 99.

How Deprivation shall relate, to what Time and Purposes. B. 5. 2 p. 102.

Trial of Deprivation, or Resignation, or &c. where by the Bishop, where by the Country. B. 7. 43. See Tit. *Trial.*

Where Notice shall be given by the Ordinary to the Patron, upon Avoidance of a Church by Deprivation, or &c. See Tit. *Notice.*

Where a Writ shall abate for Profession, Deposition, Deprivation, or &c. or not. See Tit. *Writ.*

Where Deprivation hanging an Appeal by the Party, is not of any Validity in Law. See Tit. *Appeals.*

Trial of Profession, or the Time of Profession, &c. where by the Ordinary, where by the Country. B. 4. 71. b. 9. 31. See Tit. *Trial.*

Where Affize lies upon Deprivation, for whom, and for whom not. See Tit. *Affize.*

*Deputy.* See Tit. *Assignee.*

Where the Grantee of an Office may make a Deputy, or Assignee, or not. B. 1. 24. b. 9. 47, 49.

Where the Master, or Lord shall be charged, and answer for the Act, and Offence of his Servant, or Deputy. B. 4. 33. b. 5. 2 p. 89. b. 9. 48, 98. See Tit. *Charge.*

Where Action of the Case lies against a Sheriff, or his Bail, Deputy, &c. See Tit. *Action of the Case.*

Where a Lease, Feoffment, or &c. by a Bail, Seneschall, or other Deputy shall be good, or not. See Tit. *Authority*, and *Leases.*

Where Protection, *Quia moratur*, shall be allowed the Deputy, or not. See Tit. *Protection.*

Where an Office shall be forfeited by the Act, or Negligence of a Deputy, or not. See Tit. *Forfeiture.*

Where he that has Licence to hunt, or do another Thing, may execute it by his Servants, or Deputies. See Tit. *Licence.*

Where a Deputy of an Office cannot be without Deed. See Tit. *Deeds.*

*Detainer.* See Tit. *Retainer.*

*Debt.*

Where and what shall be sufficient Matter to abate a Writ of Debt upon

upon an Obligation, or Recognisance, what not. B. 2. 3, 25. b. 3. 12, 13. b. 5. 2 p. 20, 21, 23, 36, 103, 119. b. 9. 53.

Form of the Writ of Debt, where in the *Debet*, and *Detinet*, and in the *Detinet* only, and against what Persons. B. 5. 2 p. 31, 36. b. 8. 159. See Tit. *Executors*.

Where and what shall be sufficient Matter to abate a Writ of Debt brought by, or against Executors, or Administrators, what not. B. 5. 2 p. 31, 36. b. 8. 159. b. 9. 37, 40.

Where a Joint Writ of Debt may be sued upon several Leases, or Contracts. B. 8. 88. See Tit. *Writ*.

Form of the Writ of Debt by, or against a Guardian, and where it shall be general, and the Count special, without naming him Guardian in the Writ. See Tit. *Writ*.

Where the Writ of Debt shall be general, and the Count special. See Tit. *Writ*.

Where Action of Debt lies against the Ordinary, or his Executors. B. 5. 2 p. 83. b. 9. 39. See Tit. *Ordinary*.

Count in Debt upon a Lease for Years, and what shall be good, what not. B. 3. 22, 23, 24. b. 5. 2 p. 112. b. 10. 127.

Form of the Count in Debt upon Retainer for Salary, or for an Attorney. b. 8. 147.

Where Debt lies, and is maintainable upon Statute Merchant, Staple, or Recognisance. B. 3. 15.

Where Debt lies, and is maintainable for Parcel of a Debt, and the Form of the Count; and contrary. B. 5. 22. b. 4. 94. b. 5. 2 p. 81. b. 8. 153. b. 10. 128.

Where Debt lies, and is maintainable for Relief, and for and against whom. B. 3. 66. b. 4. 49. See Tit. *Relief*.

Upon Lease for Years, and for, and against whom it lies, and is maintainable, for and against whom not. B. 3. 22, 23, 24. b. 5. 2 p. 112. See Tit. *Assignee*, and *Arrearages*, *Rents*, *Remainder*, and *Reversion*.

Where Husband and Wife shall

join in Debt upon an Obligation, or not. See Tit. *Baron and Feme*, and *Joining in Action*.

Debt against a Gaoler upon Escape, or Sheriff, and what shall be said Escape of a Prisoner in Execution, what not. B. 3. 44, 52, 71, 72. b. 5. 2 p. 86, 87, 88. b. 8. 141, 142. b. 9. 68, 98. See Tit. *Authority*, and *Escape*.

Upon Contract, and when it lies, and against whom, when, and against whom not. B. 3. 22. b. 4. 94. b. 5. 2 p. 81, 82, 83. b. 8. 147.

Count in Debt upon Arrearages of Annuity, where the Action lies, or not. B. 2. 36. b. 4. 48, 49. b. 6. 41. b. 7. 59. See Tit. *Annuity*, and *Arrearages*.

Where Debt lies against Heirs, or the Heir upon the Obligation of the Father, and how they shall be charged, and what Lands put in Execution, and contrary. B. 3. 13, 14. b. 5. 2 p. 36. b. 6. 47, 58. b. 8. 52. b. 10. 98. See Tit. *Assets*, *Heir*, *Execution*.

Where after Debt due, a Man may demand it by Debt, or another Thing at his Election. See Tit. *Election*, *Demands*, *Annuity*, and *Plaints*.

Where Debt lies for Debt payable at several Days before all the Days incurred, or not. B. 5. 22. b. 4. 94. b. 5. 2 p. 81. b. 10. 128.

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Where Action of Debt lies for Penalty forfeited upon Breach of a By-law. B. 8. 123. See Tit. *By-laws*.

Bar in Debt upon Contract, and what shall be good, what not. B. 3. 22. b. 4. 94. b. 6. 44, 45, 46. See Tit. *Acquittance*.

Bar in Debt upon an Obligation, that it was delivered upon Condition to be performed of the Part of the Obligee, which is not performed, and where it shall bar, or not. B. 9. 137. See Tit. *Deeds*.

Bar in Debt upon an Obligation by Acquittance, and where, and what shall be good, and the Form of Pleading it, and where, and what not. B. 2 p. 117. See Tit. *Acquittance*.

Bar in Debt upon Obligation by Defeasance, &c. B. 1. 113. See Tit. *Defeasance*, and *Circuity of Action*.

Bar in Debt upon Obligation against the Heir, what shall be good, what not. B. 5. 2 p. 36. b. 6. 47. See Tit. *Assets*, and *Heir*.

Where upon special Matter pleaded in Bar, in Debt upon Obligation, the Conclusion of the Plea shall be, and so not his Deed, or not. B. 2. 4, 9. b. 3. 26. b. 5. 2 p. 33, 119. b. 9. 137. See Tit. *Deeds*.

Bar in Debt upon Recognisance, or Statute-Merchant, or Staple. B. 3. 15. See Tit. *Heir*.

Bar in Debt on a Lease for Years, or at Will by Deed, or without, and what shall be good, what not. B. 1. 6. b. 3. 22, 23, 24. b. 5. 2 p. 81. b. 6. 44, 45. b. 10. 129. See Tit. *Assignee*.

Bar in Debt upon Recovery, &c. B. 3. 15. See Tit. *Scire facias*.

Where Action of Debt lies for Arrearages of Rent reserved upon a Lease for Years incurred before Re-entry for the Condition broken, or Surrender accepted. B. 3. 23, 64. See Tit. *Arrearages*.

Bar in Debt upon Obligation for performing a Condition, and what is Performance, what not, and by Consequence a Bar, or not. See Tit. *Conditions*.

Bar in Debt against Executors, or Administrators, and what shall be good, what not. See Tit. *Executors*.

Bar in Debt upon Obligation, Contract, or &c. heretofore barred in another Action, and where. See Tit. *Bar*.

Bar in Debt upon Contract, or Obligation, by accepting an Obligation for it, or by Recovery at another Time, or not. See Tit. *Extinguishment*, and *Contract*.

Where Debt lies by a Grantee of a Reversion without Attornment, or not. See Tit. *Attornment*.

Where a Writ of Debt lies by, or against an Assignee. See Tit. *Assignee*.

Where Executors may have that Action of Debt which their Testator could not have. See Tit. *Executors*.

Where the King may assign his Debt over to a common Person. See Tit. *Thing in Action*, and *Prerogative*.

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Bar in Debt upon Obligation to avoid Circuity of Action. See Tit. *Circuity of Action*.

Where a Man may plead a Defeasance, or other Matter in Bar in Debt upon Obligation, or &c. without shewing a Deed. See Tit. *Monstrance of Deeds*.

Where a Man shall plead in Bar in Debt upon an Obligation, or &c. Matter in Deed, against a Specialty, without shewing a Deed, and what Matter. B. 3. 82, 83.

Bar in Debt against a Gaoler, and what shall be good, what not. See Tit. *Escape*, and *Authority*.

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*Detinue. Devastavit. Devesting. Devenerunt. Devises.*

Where Debt lies by an Infant upon Contract made by him during his Nonage. See Tit. *Infant*.

Where an Action of Debt lies and shall be maintained upon an Indenture. B. 5. 2 p. 23.

Where Debt lies for an Administration during Minority of an Infant. See Tit. *Administration*.

Where Debt shall be apportioned. See Tit. *Apportionment*.

Debt upon Arrearages of Account, and Bar in it. See Tit. *Account*, and *Receipts*.

*Detinue*. See Tit. *Charters*.

Where Charters belong to an Heir, and he shall have Detinue for them. B. 1. 1, 2. See Tit. *Charters*.

Where the Charters go with the Land, and he that has the Land, shall have them; as the Feoffee, Lord by Escheat, or &c. B. 1. 1, 2. b. 11. 50. See Tit. *Charters*.

For a Deed of Statute Merchant, or &c. B. 5. 2 p. 90.

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Upon Tender of Amends for Trespas, and detaining the Distress after, what Damages may be recovered. See Tit. *Damages*.

*Devastavit*. See Tit. *Executors*.

*Desting*. See Tit. *Vesting*.

*Devenerunt*. See Tit. *Livery*.

*Devises*. See Tit. *Testament*.

Where and what Words in a Testament of Lands, &c. import a Fee-simple, and to what Person, where, and to whom not. B. 1. 85, 105, 155. b. 3. 20, 21, 31. b. 6. 16, 17. b. 8. 96. b. 10. 57.

Where and what Words in a Testament import an Estate in Fee-Tail, and to what Person; where, and to what not. B. 1. 66. b. 6. 16, 17. b. 9. 127, 128.

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Of a Term of Years, or other Chattel real. B. 4. 66. b. 5. 2 p. 12, 29. b. 8. 95, 96. b. 10. 46, 47. See Tit. *Remainder*.

Where the Executor upon Devise of a Chattel to him shall have Election to take as Executor, or Legatee, and where he shall have it in one Right, or other, and what Act, or &c. shall be a Declaration of his Election. B. 8. 94, 95, 96. b. 10. 47.

Where a Devise of a Chattel shall be void. B. 4. 66. b. 8. 94, 95.

Devise of Rents, and where good, or not. B. 3. 33. b. 8. 84, 85.

Devise of Lands by Custom before the Statutes, where good, or not. B. 4. 54, 113, 116. See Tit. *Custom*, and *London*.

By him to whose Use, &c. and which shall be good, and how executed. B. 6. 18. See Tit. *Statutes*, and 1 R. 3. there.

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By a Joint-Tenant, and where not good. B. 3. 30, 32. See Tit. *Joyn-Tenants*.

Of a Reversion, or Remainder, and where it shall be good, by what Words, and how it shall pass. B. 2. 61. b. 10. 81, 82.

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Devise to Executors, or that his Executors or Feoffors shall sell the Land, and what Sale shall be good, and

and what not. B. 1. 111, 173. b. 2. 53. b. 4. 55. b. 8. 76. b. 9. 77.

Upon Condition, and what Words in a Testament shall be construed in the Sense of a Condition, what not. B. 1. 23, 25, 85. b. 3. 21. b. 4. 82, 104. b. 5. 2 p. 68. b. 8. 95, 96. See Tit. *Conditions*.

To the Issue in the Belly of the Mother. B. 7. 9. See Tit. *Capacity*.

Devise in Remainder, &c. and when it shall take Effect, and begin in Possession, and to whom. B. 3. 21. See Tit. *Remainder*.

Where and what Words in a Testament of Lands and Goods shall make the Devisees Joyn-tenants, or not. B. 3. 39.

Where Devise of such Lands as the Devisor is neither seized of, nor has at the Time of the Devise, shall be good, or not. B. 3. 31. See Tit. *Statutes*, 32 and 34 H. 8. there.

Where a Devise shall be void in the whole, or in Part, and stand in another Part, or be void to one Person, and good to another. B. 1. 85, 86, 105, 155. b. 3. 20, 21, 31. b. 4. 66. b. 5. 2 p. 68. b. 6. 18. b. 8. 85, 95.

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Where the Intent of the Devisor may be averred by Matter without, &c. or not. B. 4. 4. b. 5. 2 p. 68. See Tit. *Averment*.

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Where a Remainder limited by a Devise shall be destroyed by him that has the precedent Estate, or not. See Tit. *Remainder*.

Who may make Testaments and Devise, or not. See Tit. *Testament*, *Baron and Feme*, and *Enfant*.

Where the Husband cannot devise Chattels, &c. which he has in Right of his Wife. See Tit. *Baron and Feme*.

Where a Devise and Testament by a Woman Covert shall be good, or not. See Tit. *Testament*.

By an Infant nor good. See Tit. *Testament*, and *Infant*.

By an Idiot, or of unsound Memory, not good. See Tit. *Idiot*, and *Testament*.

Where a Man, or Woman may waive a Devise, or Legacy, and what shall follow upon it. See Tit. *Waiving of*, &c.

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To one for Life the Remainder to *J. S.* there being two of that Name, which shall have this Remainder. See Tit. *Remainder*.

Where a Devise to a Wife shall be good to bar her of her Dower. See Tit. *Dower*.

Where a Devise to a Man shall remit him. See Tit. *Remitter*.

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*Digging Lands. Disability. Disceit.*

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Where an Estate Tail shall be changed into an Estate of Frank-tenement, only by Divorce. B. 9. 139, 141. b. 10. 50.

Where the Inquest shall take Notice of a Divorce, and their Verdict of it be good, and where they ought to take Notice of a Divorce upon Pain of Attaint. B. 4. 29. b. 5. 2 p. 98. b. 7. 43, 44. See Tit. *Inquest*, and *Verdict*.

Where Marriage before Years marriageable shall be dissolved by Disagreement at 14 Years, or &c. without Divorce. B. 7. 44. See *Dower*, and *Ward*.

Where Consultation shall be granted upon a Suit in the Spiritual Court, to defeat Espousals, or the Reversal of a Divorce. See Tit. *Consultation*, and *Prohibition*.

How a Divorce shall be disproved, and the Manner of Prosecution of Appeals in the Courts spiritual. See Tit. *Appeals*.

Where after Divorce the Husband shall have the Emblements. See Tit. *Emblements*.

*Digging Lands.*

Whether Waste, or no, in Lessee for Years. B. 4. 70. b. 5. 2 p. 12. See Tit. *Waste*.

*Disability.*

Where Disability in the Father shall prejudice the Son, &c. or not. B. 3. 10, 39, 41. b. 4. 124. b. 7. 12, 13. b. 8. 166. b. 11. 1, 2. See Tit. *Corruption of Blood*.

By Act of Parliament, and that for a certain Time. B. 11. 1, 2.

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Where and what Act shall disable Feoffors, or Executors to sell Lands devised by them to be sold, where, and what not. See Tit. *Devise*.

Where and what Act shall disable to revoke Uses upon Limitation of a Power to revoke, &c. where and what not. See Tit. *Revocation*.

By Attainder and Corruption of Blood. See Tit. *Attainder*, and *Corruption of Blood*.

By Excommunication, and what shall be good and sufficient, what not. See Tit. *Excommunication*.

By an Alien born. See Tit. *Alien born*.

By becoming of unsound Memory, and who may alledge that, who not. See Tit. *Dum non compos mentis*.

By entering into Religion. See Tit. *Monk*.

*Disceit.*

Upon Recovery by Defendant in Default of Summons, and how the Summons ought to be made, and what shall be good, and what not. B. 6. 9. 54.

Upon Purchase of Protection in Delay of the Suit of the Plaintiff, the Form of the Writ and Count. B. 5. 2 p. 34, 35.

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What shall be sufficient Seisin and Possession to make the Sister, or Uncle Heir, &c. what not. B. 1. 88, 121. b. 3. 2, 41, 42. b. 4. 21, 22. b. 8. 35. b. 10. 43. See Tit. *Copyhold*.

Where Discent shall be to the Half-blood; or not. B. 3. 41, 42. b. 8. 53. b. 10. 43.

Where Discent shall be to the Heir, notwithstanding the Attainder of the Father, or by Outlawry of the eldest Son for Felony, or &c. or not. B. 8. 166. b. 9. 119.

Where Discent shall be to the Heir, and he shall have the Land, notwithstanding the Ancestor be attainted, and put to Death, and contrary. B. 3. 10, 41. b. 4. 124. b. 7. 12, 13. b. 8. 43, 166. b. 9. 119. See Tit. *Corruption of Blood*.

Where Land cannot discent from the Son to the Father, or Mother. B. 3. 40.

Where Discent shall be to the Heir of the Land, notwithstanding the Father be alive. B. 2. 48. See Tit. *Heir*.

Where Discent shall be to the Daughter of Fee-simple, where the Son is alive, or not. B. 3. 39. b. 8. 43.

Where Discent shall be to the Son where the Father is beyond Sea, or in Religion, or where the eldest Son be out of the Realm. B. 1. 84. b. 2. 48. See Tit. *Heir*.

Where Land vested by Discent, shall after devise by Entry of another Person a nearer Heir, or not. B. 1. 95, 98, 99, 102, 137. b. 3. 61, 62. b. 7. 8. See *Chattels*, and *Vesting*, and *Devesting*.

Where Chattels shall discent. See Tit. *Chattels*.

Where Discent shall be to a Man born out of the Allegiance of the King, or not. See Tit. *Alien born*.

Where Discent shall not take away the Entry of him that has Right; and contrary. B. 1. 95, 98, 99, 137. b. 3. 34, 61, 62. b. 4. 21, 58, 125. b. 6. 51. b. 7. 11. *Calvin's Case*. b. 8. 100, 101. See Tit. *Entry Congeable*.

Where Age shall be granted to a Bastard who claims by Discent. See Tit. *Age*.

Of Gavelkind. See Tit. *Custom*.

Of Borough-English. See Tit. *Custom*.

Where Discent shall be to collateral Heirs at the Common Law, upon a Gift in Tail, or Frank-marriage. See Tit. *Formedon*.

Where Discent of Chattels shall be to the Heir of the King. See Tit. *Heir*, and *Chattels*.

Where Discent shall be to the Heir of the Mother, notwithstanding the Attainder of the Father. B. 3. 41.

Where Issues shall be taken, and joined upon Discent. See Tit. *Issues joined*.

The Form of pleading a Discent where a Man makes Title as Heir. See Tit. *Pleadings*.

Where Use of Land shall descend in the same Course, as Land descends. See Tit. *Uses*.

Where the Heir shall take by Purchase, and not by Discent, and upon what Manner of Limitation. See Tit. *Capacity, Limitation, Remainder, and Ward*.

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Where Disclaiming in Pais is not sufficient to devise a Frank-Tenement in Lands, &c. B. 3. 26.

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*Discontinuance of Lands, &c.*

Where and what shall be Discontinuance of Land in Tail in Possession, where and what not. B. 1. 44, 48, 84, 140. b. 3. 50, 51. b. 8. 71. b. 10. 96, 97. See Tit. *Stat. 32-H. 8. c. 28.*

Where and what shall be Discontinuance of Land in Reversion, or Remainder, what not. B. 1. 76. b. 2. 52. b. 3. 63, 84, 85. b. 4. 23. b. 10. 97.

Where and what shall be Discontinuance of an Advowson in Tail, what not. B. 1. 122. b. 3. 84.

Where and what shall be Discontinuance by the Husband of the Wife's Lands, or Right, or Reversion, and where, and what not. B. 3. 58 to 63, and 85. b. 4. 23. b. 5. 80. b. 8. 71, 72. See Tit. *Statutes, 32 H. 8. c. 28.* See Tit. *Entry Congeable*.

Of Tail in Right, and how, and when it shall be. B. 3. 84, 85.

Where Discontinuance of Tail shall be by the King, or not. B. 1. 44, 52. See Tit. *Grant of the King*.

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Of Tail by Release where, and where not. B. 3. 50, 51, 84, 85.

By Exchange. See Tit. *Exchange*.

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Where Entry shall be lawful for the Wife after the Death of her Husband, notwithstanding a Discent. See Tit. *Entry Congeable*.

*Discretion. See Tit. Office of Court.*

Where Judgment after Verdict may be respited and deferred by Discretion of the Court. See Tit. *Judgment*.

Where the Court may abridge, or increase Damages at their Discretion, or not. See Tit. *Damages*.

The Discretion, or Definition of Discretion, and how it ought to be qualified. B. 5. 2 p. 100. b. 10. 140.

Where a Thing by Statute is referred to the Discretion of Commissioners, or &c. how it ought to be directed. B. 5. 2 p. 100. b. 10. 140. See 23 H. 8. c. 5. and Tit. *Sewers*.

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To have Two, or more Benefices, good and sufficient, what not. B. 4. 75, 76, 79, 117, 118, 119. b. 5. 28, 31. See Tit. *Pluralities*.

For a Bastard to be Priest, what good, what not. B. 5. 28.

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and for what not. B. 11. 98 to 100.

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Of Rent, by Rescue. B. 4. 9.

Of Rent, by denying in Deed, or Law. B. 7. 29.

Where Claim shall be Disseisin of Land, and a Man a Disseisor against his Claim, or not. B. 2. 55, 59. b. 3. 10.

Where Tenant for Years at Will, or Sufferance, or &c. shall be Disseisors, and those who enter by them. B. 3. 77, 78. b. 5. 2 p. 79, 80. See Tit. *Statutes, W. 2. c. 25.* there.

Where he who enters Land claiming an Estate not warranted by Law, shall be a Disseisor, or not. B. 1. 128. b. 2. 55, 59. See Tit. *Tenant at Will.*

Where Entry shall be Disseisin of Land, and what such Entry, or not. B. 2. 50, 55. B. 3. 10.

What Pleas the Disseisor may have in Assize, what not. B. 7. 26.

Where the Disseisee shall not have a Thing append to a Manor, until he has recontinued the Manor, &c. to which, &c. or contrary. B. 1. 122. See Tit. *Presentation to a Church, and Remittance.*

Where and what Things done and executed by a Disseisor shall stand in Force against the Disseisee, or not. B. 1. 140. b. 2. 67. b. 3. 78. b. 4. 24, 31. b. 5. 2 p. 30. b. 6. 57, 58. b. 11. 51. See Tit. *Dower, and Collusion.*

Where outing the Fermor, or Lessee for Years, is Disseisin to him in Reversion. See Tit. *Assize.*

Where the Attorney to make Livery and Seisin is a Disseisor by the Livery, or not. See Tit. *Feoffments.*

Where one Joyn-tenant may disseise his Companion, and what Judgment is to be given upon Recovery in Assize by one against the other. See Tit. *Assize, and Joyn-tenants.*

Where Disseisin shall be by often Distress. See Tit. *Assize, and Statutes; West. 2. c. 25.*

Where Feeding another's Land is Disseisin. See Tit. *Assize, and Statutes; W. 2. 25. and Homage, &c.*

Where Dower assigned by the Disseisor shall be good, and stand against the Disseisee, or not. See Tit. *Dower, and Collusion.*

Where Fine shall be made to the King for Disseisin, and without Force. See Tit. *Fine to the King.*

Where the Disseisor shall be changed by Confirmation or not. See Tit. *Confirmation.*

Where he to whose Use, may be a Disseisor to his Feoffors, or not. See Tit. *Uses.*

Where and against whom the Disseisor, after his Regress shall have a Writ of Trespass for the mean Trespass, &c. and against whom, without Re-entry. See Tit. *Trespass.*

Where the Disseisee is to have the Emblements of the Disseisor, or &c. or not. See Tit. *Emblements.*

Where Entry of the Disseisee is lawful, notwithstanding a Discent. See Tit. *Entry Congeable.*

Where Unity of Possession by Wrong, or Disseisin of Land, or Parcel of it extinguishes the whole Rent, or &c. or not. See Tit. *Extinguishment.*

Where Disseisin by a Bishop, Parson, &c. and such as have two Capacities, shall be mortmain, or not. See Tit. *Mortmain.*

Where Disseisin alledged in Pleading shall be traversed, and Issue taken upon it, or not. See Tit. *Issue, Traverse, and Replication.*

Where an Infant's Feoffment is void, and he that enters a Disseisor. See Tit. *Infant.*

Where Disseisin to a Tenant for Life prevents the Execution of a Remainder, and destroys it, or not. See Tit. *Remainder, and Estates.*

*Distress.*

What Things, and in what Places a common Person, Lord, may distrain for Rent, or Services, in what not. B. 5. 2 p. 92. b. 7. 23, 24. b. 9. 22.

Where a Man may distrain for Rent-Charge; what Lands are subject to it, what not. B. 6. 39. b. 7. 23, 24.

b. 8. 154. See Tit. *Charge*, and *Hors de fee*.

Where a Man may distrain, &c. for Damage-feasant, in what Place not. B. 9. 22, 66.

In what Manner Distress may be, &c. B. 10. 27, 28.

Where and at what Time a Man may distrain for Rents, Services, or Damage-feasant, where in Night-Time, or not. B. 7. 7. b. 9. 66.

For what Rent, Thing, or Duty a common Person may distrain, for what not. B. 3. 22. b. 4. 9. b. 8. 41. See Tit. *Amercements*.

In what Place, what Goods and Beasts, and in what Lands the Ministers of the King may distrain for Rents, Services, or other Duties of the King, in what not. B. 3. 22. b. 5. 2 p. 4, 56, 92. b. 11. 44.

How a Distress shall be demeaned, and in what Place impounded, and where fold, or not. B. 8. 41, 146. b. 9. 11.

Excessive, and outrageous, for what Services, and what not. B. 4. 8. b. 11. 44. See Tit. *Faalty*, and *Statutes, Marl.* c. 4.

Where Distress may be for Rent, &c. B. 3. 22. b. 4. 9. See Tit. *Rents*, and *Parcenors*.

Where a Commoner may distrain Beasts Damage-feasant. B. 8. 78.

Where a Man may distrain for one Cause and avow in Court for another, and well. B. 3. 26. See Tit. *Avowry*, and *Waving of Things*, and *Agreement*.

Affize for often Distress, where it lies, or not. See Tit. *Affize*, and *Homage*, and &c. *W.* 2. c. 25. See Tit. *Statutes*.

For Amercements, and where, and how, and in what Place. See Tit. *Amercement*.

Out of his Fee, and in the King's Highway, and Action upon the Statute for it. See Tit. *Action upon Statutes, Marl.* c. 5. there.

Upon Grant of Rent, &c. and what Words in the Deed of Grant are sufficient to charge the Land with Distress, what not. See Tit. *Charge*.

Where the Grantee of a Seigniori or Reversion may distrain and avow without Attornment. See Tit. *Attornment*.

Where Distress for Rent after Title accrued, for Re-entry for Condition broken shall bar to enter for the Condition, &c. or not. See Tit. *Acceptance*, and *Arrearages*.

Where a Fine shall be levied of Rent, where granted with Clause of Distress, how the Distress shall be limited, and without Clause of Distress. See Tit. *Fines of Lands*.

Prerogative of the King in Distresses, &c. See Tit. *Prerogative of the King*.

*Double Plea.*

Where Count in *Quare Impedit* shall not be double by alledging two or more Presentments. B. 5. 2 p. 57. b. 4. 117. b. 6. 48, 62. b. 8. 144. See Tit. *Quare Impedit*.

Where double Issue shall be taken as well in the Case of a common Person, as the King's. B. 9. 99. See Tit. *Issues joined*.

Where a Man may join divers Things of several Natures in one Writ, Plaint, or &c. and it shall not be double. See Tit. *Affize*, and *Writ*.

Where many Causes of Error may be assigned, and the Assignment not be double. See Tit. *Error*.

Where a double Condition is upon a Feoffment, or &c. one of one Part, another of another; how to be performed. See Tit. *Condition*.

Where and in what Actions double Judgments shall be given. See Tit. *Judgments*.

*Dove-cote, and Doves.*

Where and what Lord, or other may create a Dove-house, what not, and how punishable. B. 5. 1 p. 104.

Where it is Felony to take young Doves, or Eggs. See Tit. *Crown*.

Where Erection of a Dove-house shall be presented and punished in the Leet. B. 5. 2 p. 104. See Tit. *Leet*.

*Dover.*

## Dower.

Form of the Writ of Dower. B. 7. 58. b. 11. 25. See *Tit. Form.*

Where Writ of Dower lies, and is maintainable against a Guardian Lessee for Years, or Committee of the King, or not. B. 9. 16, 17.

Of a Mill, the Demand of it by Writ of Dower, and Count thereupon. B. 11. 25.

Of Tithes, the Form of Demand by Writ of Dower, and Count. B. 11. 25.

Of what Inheritance of the Husband the Wife is to have Dower, and what shall be sufficient Seisin in the Husband to have Dower, what not. B. 1. 123. b. 2. 59, 77, 79. b. 3. 27, 84. b. 4. 1, 22, 30, 64, 66. 122. b. 6. 34, 79. b. 7. 8, 38. b. 8. 22, 27, 36, 96. b. 10. 52, 57, 96.

Assignment of Dower (and of what Thing to be) by the Disseisor shall stand against the Disseisee, or not. B. 2. 67. b. 3. 78. b. 5. 2 p. 30. b. 6. 58. b. 8. 101, 132. See *Tit. Collusion.*

Dower of the Pluis Beale, and where. B. 5. 2 p. 31. b. 6. 57.

Of Assent of the Father, Mother, Sister, or *&c.* where good, or not, by whom it must be, by whom not. B. 3. 38. b. 4. 1.

Of Dower not. B. 4. 122.

At the Church Door. B. 4. 1.

At what Age a Woman deserves Dower. B. 6. 40.

To whom is Tenant in Dower to be attendant, and by what Services. B. 7. 9. b. 8. 35, 36. b. 9. 135.

Where the second Wife of Tenant in Tail shall have Dower. B. 8. 36.

Where a Woman shall be indowed of Rent extinguished, or an Estate determined. B. 7. 38. b. 8. 34 to 36.

Where a Woman shall be indowed of a Thing in Suspence, or which ceases for a Time, and where not. B. 8. 96. b. 10. 96.

Where Dower is assigned in the Court of Chancery. B. 9. 16, 17.

Where Dower shall be held charged, or not. B. 4. 66.

Where a Woman shall be a new indowed, *&c.* and where she may disagree to her Dower, and have her Dower, or not. B. 4. 3. b. 9. 17.

Where and what Matter is good and sufficient to abate a Writ of Dower. B. 6. 57. b. 9. 17.

Bar to a Woman in Dower, by Fine levied by her and her Husband, or by Recovery against them, or not. B. 2. 74, 78. b. 10. 49, 99.

Bar to have Dower by detaining Charters, who shall plead it in Bar, who not. B. 5. 2 p. 75. b. 7. 9. b. 9. 17, 18, 110. b. 10. 94.

Bar in Dower by eioigning the Heir, and the Form of pleading it. B. 9. 18, 19.

Where a Woman shall be barred of Dower, because of Jointure, and what Jointure bars, what not. B. 1. 176. b. 3. 27, 28. b. 4. 1, 2, 59. See *Tit. Agreement*, and *Statutes*, 27 H. 8. c. 10. there.

Bar in Dower by Non-claim within Five Years after Death of the Husband upon a Fine levied, *&c.* and where. B. 2. 93. b. 8. 100. See *Tit. Continual Claim.*

Where in Writ of Dower Judgment shall be that the Demandant shall recover against the Tenant, and where against the Voucher. B. 9. 17 See *Tit. Judgment.*

Bar in Dower by Acceptance. See *Tit. Acceptance.*

Where a Woman Tenant in Dower shall recover in Value, and how, *&c.* See *Tit. Recovery in Value.*

Where a Woman shall recover Damages in a Writ of Dower, or not. See *Tit. Stat. Merton.* c. 1. there, and *Damages.*

Of a Copyhold, and where. See *Tit. Copyhold.*

Waste against Tenant in Dower, and where it lies against her after Grant of her Estate. See *Tit. Waste.*

Where Dower shall be recouped, or not. See *Tit. Recouping.*

Where the Wife of an Alien shall not have Dower. See *Tit. Alien.*

Where



*Duke and Dutcheſs. Dum ſuit infra etatem. Dum non compos mentis. Dureſs.*

Where a Woman ſhall have Dower by Cuſtom, and where the Moiety, and where the Whole ; and the Form of the Count. See Tit. *Cuſtom.*

Where Aid of the King ſhall be granted in a Writ of Dower. See Tit. *Aid of the King.*

Where a Release ſhall bar in a Writ of Dower, and extinguish it. See Tit. *Releafes.*

Where a Recovery in Value ſhall be againſt any of the Vouchers in a Writ of Dower, and where againſt all, and where the Lands of all them ſhall be charged. See Tit. *Recovery in Value, Charge, and Contribution.*

Where and what Eſſoin ſhall be allowed in a Writ of Dower, what not. See Tit. *Eſſoin.*

Where the Woman in Dower ſhall make Title by Release made to her Husband without ſhewing it. See Tit. *Monſtrance of Deeds.*

*Duke and Dutcheſs.* See Tit. *Baron.*

*Dum ſuit infra etatem.*

Where Two Infants upon a Joint Alienation by them cannot join in a Writ of *Dum ſuit infra etatem.* B. 8. 43.

Where upon Joint Alienation by Two Infants Joint-tenants, one dies, ſhall the Survivor have, *Dum ſuit infra etatem,* of the whole, or not. B. 8. 43.

Where Cuſtom of Alienation by an Infant ſhall be good, and bind him, or not. See Tit. *Cuſtom.*

Where Age ſhall be granted in *Dum ſuit infra etatem.* See Tit. *Age.*

Bar in *Dum ſuit infra etatem,* by Acceptance, &c. See Tit. *Acceptance.*

*Dum non compos mentis.*

Where and for whom this Writ lies, and for whom not. B. 4. 123, 124.

Where a Fine levied by one of unſound Mind ſhall bind him, and the Uſe upon it, for him ſhall be good. B. 4. 124.

Where Feoffment, or other Affurance of Land below, by one of unſound Mind ſhall not be avoided by himſelf. B. 4. 124, 125.

Who ſhall avoid a Feoffment, or &c. made by a Man of unſound Memory, who not. B. 4. 124, 125.

Where a Grant of a Copyhold by a Man of unſound Memory, Lord of a Manor, ſhall be good, *Dum non compos mentis,* &c. B. 4. 23. b. 8. 63. See Tit. *Copyhold.*

Where a Devise by a Man of unſound Memory is not good, and where it ſhall be countermanded by being of ſound Memory after. B. 4. 61. b. 6. 23. b. 8. 144.

How and in what Courts Lands of Ideots, or of thoſe who are of unſound Memory, ſhall be ordered, and who ſhall have the Cuſtody of them. B. 4. 56, 126. See Tit. *Ideots.*

Where a Man ſhall be excuſed of Murder, or Homicide, becauſe of unſound Memory. See Tit. *Crown.*

Where and when Age ſhall be granted, and the Plea demur in *Dum non compos mentis.* See Tit. *Age.*

Where Attornment by a Man of unſound Memory ſhall be good, or not. See Tit. *Attornment.*

How a Man of unſound Memory ſhall ſue, or defend himſelf in Actions ſued againſt him. See Tit. *Attorney.*

Where Laches of Claim upon Fines levied, or upon other Right ſhall be excuſed by Cauſe of unſound Memory, or not. See Tit. *Continual Claim, Laches, and Waif, and Wreck.*

Where Entry of the Heir of him that was of unſound Memory, is lawful, tho' the Entry of the Anceſtor was not againſt his own Feoffment. See Tit. *Entry Congeable.*

*Dureſs, and Menace.*

Where Menace by another than the Plaintiff, or Party himſelf, &c. to whom, ſhall avoid an Obligation, or other Deed, or not. B. 2. 9.

Where Entry ſhall be lawful upon Diſcent accrued, during Time  
of

*Ejectione firma. Ejection of Ward. Eyre. Elegit.*

of Durefs of Imprifonment, or not. B. S. 100. b. 9. 87.

Where Laches of Claim upon Fines levied fhall not hurt, or prejudice a Man, becaufe of Durefs of Imprifonment. See Tit. *Contin. Claim.*

Where the Defendant fhall be faved, becaufe of Durefs of Imprifonment, or not. See Tit. *Saving Default.*

Where Action of the Cafe lies for Menace of Tenants at Will, and their Departing from their Tenures, &c. or of Villains, or Servants. See Tit. *Action of the Cafe.*

E.

*Ejectione firma.*

**F**orm of the Writ of *Ejectione firma*, and what Matter fhall be fufficient to abate it, what not. B. 9. 77, 78.

Count in *Ejectione firma*, and what fhall be good, what not. B. 1. 3. b. 2. 61. b. 3. 16, 45. b. 4. 96. b. 10. 46. b. 11. 55, 66.

Of what Things *Ejectione firma* lies, of what not. B. 4. 26. b. 11. 25.

Where antient Demean fhall be a good Plea in *Ejectione firma*. B. 5. 2 p. 105. b. 9. 77, 78.

Lies by Lefsee of a Copyholder. B. 4. 26. See Tit. *Copyhold.*

By an Executor, becaufe of being outed. B. 4. 95.

Verdict in this Action; and where Verdict at large fhall be given in this Action, and be good. B. 1. 153. b. 2. 59, 60, 91. b. 3. 19, 37. b. 4. 52, 60, 64, 78. b. 6. 14, 16, 67.

Judgment in *Ejectione firma*. B. 5. 2 p. 105. b. 9. 77, 78.

Bar in *Ejectione firma* by Accord. B. 9. 77, 78. See Tit. *Accord.*

Where a Man may maintain an *Ejectione firma*, Action upon the Cafe, or Trefpafs at his Choice. See Tit. *Election.*

Bar in *Ejectione firma*, by Warranty collateral of the Ancestor of the Plaintiff, or not. See Tit. *Warranty.*

*Ejection of Ward.*

Form of the Writ of Ejection of Ward, and what fhall be good and fufficient Matter to abate it, what not. B. 10. 130. b. 11. 45.

Count in Ejection of Ward, and what fhall be good, what not. B. 11. 55.

Where Writ of Ejection of Ward lies for the Guardian in Socage. See Tit. *Ward.*

Where Writ of Ejection of Ward lies of Land, and Body, or not. See Tit. *Ward.*

Verdict in Ejection of Ward, and what good, what not. See Tit. *Ward*, and *Verdict.*

Where Judgment fhall be given in Ejection of Ward, &c. See Tit. *Judgment.*

Who is a Deforceor againft whom a Writ of Ejection, or &c. lies, and who not. See Tit. *Ward.*

Where and what Damages fhall be recovered in Ejection of Ward. See Tit. *Ward.*

*Eyre.*

Of Juftices in Eyre, and their Authority. See Tit. *Juftices.*

*Elegit.*

Where Execution fhall be awarded by *Elegit*, and how the Sheriff fhall demean himfelf upon it, and what Lands fhall be delivered in Execution. See Tit. *Execution*, and *Extent.*

Where Affize lies by Tenant by *Elegit*. See Tit. *Affize.*

Where the Lord who has the Wardship of the Heir of his Tenant fhall out the Tenant by *Elegit*, or not. See Tit. *Ward.*

Where Tenant by *Elegit* fhall falshify a Recovery had againft him in Reverfion, who has the Frank-tenement. See Tit. *Falshifying of Recovery.*

Where Tenant by *Elegit* fhall be received upon Default, or &c. of him in Reverfion who has the Frank-tenement

tenement in Action against him. See Tit. *Resciet*.

Where Action of Waste lies against Tenant by *Elegit*, or not. See Tit. *Waste*.

## Election.

Where it is in Election of the Purchaser, to take in one Course of Conveyance, or other, or not; and upon what Words within the Deed, &c. B. 2. 35, 36. b. 4. 71, 72. b. 6. 36. b. 8. 167.

Where the Lord may choose to have the Wardship of the Heir of his Tenant, or to waive it, and take the Rents and Services at his Pleasure. B. 2. 68.

Where upon Grant of a Rent-Charge the Grantee may distrain, or have a Writ of Annuity at his Election, or not. B. 2. 36. b. 3. 29. b. 4. 49. b. 6. 58. b. 7. 24. b. 10. 128.

Where upon Two or Three Actions it is a Man's Choice to have one, or the other, or not. B. 2. 37, 61. b. 4. 92 to 95. b. 5. 2 p. 88. b. 9. 50, 51. See Tit. *Bar*, and *Recovery*.

Of Abbots, Bishops, or other Heads of Corporations, how to be made, and what Election of them good. B. 3. 74. b. 4. 77, 78. b. 10. 31, 34.

Of a Sheriff of a County, and how he shall be chosen. B. 3. 72. b. 4. 33. See Tit. *Sheriff*.

Where and by what Acts and Accidents Election upon Grants shall be gone and determined, and by what not. B. 2. 37. b. 3. 24, 84. b. 4. 49. b. 7. 7, 8. b. 10. 128.

Where and when upon Grant or Obligation the Grantor or Obligor shall have Election, and where; and when the Grantee, or Obligee. B. 2. 37. b. 5. 2 p. 22, 25, 112. b. 6. 36. b. 8. 155. b. 10. 127, 128. See Tit. *Annuity*, *Demandant*, *Gift*, and *Plaintiff*.

Where it is in Election of the Issue in Tail to have the Land taken in Exchange, or the Land descended to him from his Father. B. 1. 96. See Tit. *Exchange*.

Where it is in Election of the Tenant to attorn to the first, or second

Grantee of the Reversion, where, &c. B. 5. 2 p. 112. See Tit. *Attornment*.

Where Heirs, or Executors shall have Election upon Grants, where, &c. or not. B. 2. 36, 37.

Where it is in Election of the Lord to have a Writ of Forfeiture of Marriage, or to detain the Land, until, &c. b. 4. 82. b. 5. 2 p. 126, 127. b. 6. 70, 76. b. 10. 119. See Tit. *Action upon the Statutes*, *Merton*. c. 6. 7. Tit. *Stat.*

Where it is in Election of the Issue in Tail to bring his Writ of Formedon, or to enter, and make Claim. B. 3. 84, 85.

Where it is in Election of the Tenant to vouch, or &c. by Warranty indeed, or in Law. B. 4. 81. See Tit. *Warranty*.

Where it is in Election of the Plaintiff in Action, to have Judgment by the Common Law, or given by Statute, or not. B. 5. 2 p. 59. b. 11. 62. See Tit. *Judgment*.

Where he to whose Use, &c. shall have Election to execute the Estate in the Land as Owner of it, or by Authority to him given, or reserved. B. 6. 18. See Tit. *Authority*.

Where the Lord may elect to avow upon the Feoffor, or Feoffee, or not, See Tit. *Avowry*, and *Notice*.

Where the Lessor may elect to bring an Action of Debt against the Lessee, or Assignee after Assignment by the Lessee of his Term. See Tit. *Assignment*.

Where it is in the Election of the Escheator, to return an Office found before him into the Chancery, or Exchequer. See Tit. *Office before the Escheator*.

Where it is in the Election of the Officer who arrests a Man upon a Warrant of the Peace, to carry the Party arrested to what Justice he pleases See Tit. *Arrest*, and *Peace*.

Where it is in Election of the Sheriff upon *Fieri facias* to him directed, to sell a Term, or deliver it in Execution upon Extent. See Tit. *Execution*.

Of a Coroner, and how it shall be. See Tit. *Coroner*.

Where

*Election. Eloigning.*

Where upon Demurrer offered by one Party, the other shall not have Election to refuse to join in Demurrer. See Tit. *Demurrer*.

Where Election shall precede an Estate, where follow it. B. 2. 36.

Where it is in the Election of Party Plaintiff to bring an Action in what Place or County he pleases. See Tit. *Writ*.

Where it is in the Election of the Obligee to bring his Action of Debt against one Obligor, or all. See Tit. *Obligation*.

Where a Man may elect to make Title by Prescription general, or special. See Tit. *Prescription*.

Where and what Writs may be sued and maintained by the Husband and Wife, or Husband alone at his Election, where and what. See Tit. *Husband and Wife*.

Where there may be Election to have a Writ of Entry in the *per, per* and *cui*, or in the *post*, or not. See Tit. *Entry*, and *Writ of Entry*.

Of grand Assize in the Writ of Right, and the Order of it. See Tit. *Right*.

Where a Contract, or Action upon it shall be gone, and extinct by Acceptance of an Obligation for it, or not; but the Party may have his Action upon one, or the other, at his Election. See Tit. *Contract*, and *Extinguishment*.

Where a Contract or Action upon it shall be gone and extinct by Recovery, or not, but the Party may maintain his first Action, or an Action upon the Judgment at his Election, or not. See Tit. *Extinguishment*.

Where and what Actions may be sued against the Husband and Wife jointly, upon a Thing done during the Coverture, or against the Husband alone at the Election of him that sues. See Tit. *Baron and Feme*, and *Joining in Action*.

How Conditions in the Disjunctive shall be performed, and what Party shall have Election. See Tit. *Election*.

Where Appeals and Inditements shall be good against the Principal

and Accessory jointly, or severally at the Election, &c. See Tit. *Appeals*.

Where an Executor upon a Devise to him shall have Election to take as Executor, or Legatee. See Tit. *Devise*.

Where a Woman shall have Election to be indowed of one Land, or another, or to be anew indowed. See Tit. *Dower*.

Election of the King to sue in what Court he pleases, and to chuse what Action he will. See Tit. *Prerogative*.

Where a Man may vouch one or Two upon Joint Garranty at his Election, or not. See Tit. *Voucher*.

To have Execution by *Fieri facias*, *Capias*, or *Elegit*, or not. See Tit. *Executions*.

Of a Woman after Death of her Husband, or Issue in Tail, or &c. to make a Lease good by Acceptance. See Tit. *Acceptance*.

Where it shall be in Election to make a Lease, Grant, Gift, or Deed by him, good at full Age, or not. See Tit. *Infant*.

In Grants, Eoffments, Leases, &c. to make them good by Agreement, or avoid them by Disagreement after. See Tit. *Agreement and Disagreement*.

Where a Man shall pray and have Process at the Common Law, or Process given by Statute, or not. See Tit. *Process*.

Where a Man or Woman shall be remitted against their Claim below at Election, or not. See Tit. *Remitter*.

Where it is in the Election of Justices of Peace to make Restitution upon the Statutes of forcible Entry, or stay it upon Traverse. See Tit. *Forcible Entry*, and *Peace*.

Where the King shall have Election to have the Wardship of the Issue in Tail, upon a Gift made by his Tenant without his Licence. See Tit. *Prerogative*.

*Eloigning.*

Where a Woman shall be barred of Dower by eloigning the Heir, and by eloigning and detaining of Chateles. See Tit. *Dower*.

Emblements.

Where the Disseisee shall have the Emblements of the Disseisor or Abator after his Re-entry, or not. B. 11. 51.

Where the Disseisee shall have the Emblements of the Feoffee, or Lessee of the Disseisor, or Abator, or not. B. 5. 2 p. 85. b. 11. 51.

Where Tenant by Copy of Court, or Lessee at Will shall have the Emblements, notwithstanding the Entry of the Lord, or Lessor. B. 4. 21. b. 5. 2 p. 116.

Where Lessee for Years shall not have the Emblements after his Estate determined. B. 5. 2 p. 85, 116.

Nor Lessee for Years of a Lessee for &c. B. 5. 2 p. 85, 116.

Where Lessee for Life, or his Executors shall have the Emblements. B. 5. 2 p. 85.

Where the Husband who has an Estate in the Right of his Wife, shall have the Emblements. B. 5. 2 p. 116.

Where the Wife shall have the Emblements of the Husband after his Death, and not the Husband's Executors, where contrary. B. 5. 2 p. 116.

Where the King shall have the Emblements upon Outlary. B. 5. 2 p. 116.

Empar lance.

The Form of Entry of Empar lance in the King's Bench, and Difference betwixt Empar lance upon Plea in Bar, and upon Replication. B. 5. 2 p. 75. See Tit. Continuance.

Where after Empar lance the Defendant shall have Hearing of the Deed, Testament, or Record, or not. B. 5. 2 p. 74.

Encumbent.

Where Quare Impedit, or &c. lies and is maintainable against an Incumbent alone, or not. B. 7. 25, 26.

What Pleas the Incumbent shall have in Quare Impedit, or &c. as well against a common Person, as the King; and how, and when, and what not. B. 4. 117. b. 6. 48. b. 7. 26. b. 10. 54. See Tit. Statutes, 25 E. 3. c. 7. there.

Where and to what Intents the Presentee to a Church shall be said an Incumbent by Admission without Induction, to what not. B. 4. 75. b. 6. 49. B. 7. 26. See Tit. Presentation to a Church, and Quare Impedit.

What Manner of Persons cannot be Presentees to a Church, to be Incumbents, but the Bishop may refuse them, &c. B. 4. 17. b. 5. 2 p. 57, 58.

Where an Incumbent shall be removed upon Recovery in a Writ of Right, or Quare Impedit, or &c. where not. B. 6. 29, 30, 48, 50, 51. See Tit. Writ to the Bishop.

Of an incumbent Parson Imparsonce, &c. See Tit. Appropriation.

Where an Incumbent shall plead a Deed made to the Patron without shewing it. See Tit. Monstrance of Deeds.

Where an Incumbent shall have Assize, or Trespass of Disseisin, or Trespass done him, of Tithes in his Glebe Land, or Church-yard, &c. See Tit. Assize, Trespass, and Parson.

Where Plenarty by Six Months shall be sufficient Title, and bar in Quare Impedit, or &c. or Plenarty in a Parson imparsonce, or not. See Tit. Quare Impedit.

Where a Lease by a Parson, Prebend, or &c. of his Parsonage, or &c. shall be void by their Deaths, Resignation, Non-residence, or &c. or not. See Tit. Leases, and Parson.

Endenture.

Where and what shall be said and accounted an Indenture, or Deed indented, what not. B. 5. 2 p. 20. See Tit. Deeds.

Where Estoppel shall be by Indenture, and where a Stranger shall estop, and be estopped by it, or not. B. 1.

*Enditement.*

155. b. 4. 53, 54. b. 5. 2 p. 20. b. 6. 15. b. 9. 8, 9.

Where an Action of Covenant may be maintained upon an Indenture, without Words within Covenant, and upon what Words within the Deed, upon what not. B. 4. 80. b. 5. 2 p. 17, 18. See Tit. *Covenant*.

How Conditions to perform Covenants contrived within Indentures shall be performed, and the Form of Pleading thereupon. See Tit. *Condition*.

Of Indentures of Defeasance, and where they shall be construed, and avail as a Condition, to avoid Circuity of Action. See Tit. *Circuity of Action*, and *Defeasance*.

Of Inquisition found before the Escheat, and that the Counterpart of the Indenture ought to remain with the Jury. See Tit. *Escheator*.

Where Use of Land may be declared by Indenture, bearing Date before, tho' the Assurance subsequent vary in Time, Quantity of Land, or &c. See Tit. *Uses*.

*Enditement.*

Who have Power and Authority to take Inditements, who not. B. 4. 41, 45, 46. b. 9. 118.

Where the Inditement which wants the Year and Day, nor makes it uncertain when the Thing was done, shall be good, or not. B. 4. 41, 48.

Where an Inditement which wants the Place, and makes it uncertain where the Thing was done, shall be good, or not. B. 9. 66.

Where an Inditement shall be good by Intendment, or Implication of Words, or not. B. 4. 41, 42, 44, 47. b. 5. 2 p. 120, 121. b. 8. 57.

Where an Inditement shall be good by Words equivalent, and what shall be said Words equivalent, or not. B. 5. 2 p. 122, 123.

Where to be void and insufficient for not putting in certain, the Part of the Body in which the Wound was given, and which Words imply sufficient Certainty, which not. B. 4. 40, 41. b. 5. 2 p. 121.

Where an Inditement is good, without shewing the Depth of the Wound, or not. B. 4. 40, 41. b. 5. 2 p. 122.

The Order to form Inditements at this Day by Statutes. B. 11. 29. & *seq.*

Where an Inditement which wants the Word (feloniously) is good, or not. B. 4. 41. b. 5. 2 p. 121. b. 9. 69.

Where an Inditement by Words general, as common Thief, Forcfeiler, Champertor, Barretor, or &c. is good, or not. B. 8. 36, 37. See Tit. *Barretor*.

In what Place and County Inditements shall be taken, in what not. B. 9. 118. See Tit. *Appeals*, and *Writs*.

What is a good Inditement of Murder, or Homicide, what not. B. 4. 40, 41, 42, 44, 45. b. 5. 2 p. 122, 123.

Relation of Words in Inditements, where they are good by such Relation, or not. B. 4. 40, 41.

Where an Inditement upon a Statute is good without rehearsing the Statute, and where against the Form of the Statute will be sufficient. B. 4. 48. See Tit. *Action upon Statute*, and *Forcible Entry*.

Where an Inditement, or Presentment, not expressing before what Court or Judge it was, &c. is good, or not. B. 4. 41.

Where an Inditement taken in the Time of one King shall stand in the Time of another, and the Party be arraigned, and put to Answer upon it, or not. B. 7. 31.

Inditement of Burglary, and what shall be good, what not. See Tit. *Crown*.

For what Place and County the Country shall come to try the Issue upon an Inditement of Felony, or Treason. See Tit. *Crown*.

Where the Inquest upon Issue joined upon Inditement of Felony in one County may find a Thing done in another. See Tit. *Enquest*.

What shall be a good Inditement of High Treason, what not. See Tit. *Treason*.

What shall be a good Inditement of Petty Treason, what not. See Tit. *Crown.*

Of Inditements and Presentments in Leets, which shall be good, which not. See Tit. *Leets.*

Where an Inditement is insufficient for Default of the Word *percussit*, He struck. B. 4. 41. b. 5. 2 p. 122, 123.

Where good against many upon the Death of a Man, and the Form of Inditement in such Case. B. 4. 40.

Against many, insufficient against one, where it shall be void against all. B. 4. 40.

Where the principal and accessory may be joined in one Inditement, or several Inditements, may be at Election. See Tit. *Appeals*, and *Election.*

Against the Principal, which good, which not. See Tit. *Crown.*

Against the Accessary, which good, which not. B. 4. 40, 41. See Tit. *Crown.*

Where good by the Word (about) or not. B. 4. 40, 41.

Where good for Murder, without the Words (of Malice forethought) or not. B. 4. 40, 41.

Where upon the Statute of Recusants, 23 *Eliz.* B. 11. 60, 61.

Where an Inditement shall be good without the Words (in the Peace of God, or of our Lord the King) or not. B. 4. 41.

Where void and insufficient for false and insensible Latin, or not. B. 4. 39, 42. b. 5. 2 p. 120, 121. See Tit. *False Latin.*

Where void and insufficient by supposing one Thing to be done at two several Days. B. 4. 48.

Where an Inditement is but an Inquest of Office to find the Truth of the Fact, and therefore Defects in Law in them shall be supplied, &c. B. 4. 42, 47.

Where Surplusage in an Inditement shall make it vitious, or not. See Tit. *Surplusage.*

Where Inditement by Inquest which finds Matter of Record is good, or not. See Tit. *Enquest.*

Where an Inditement of a Justice of Record for a Thing as Justice shall be good, or not. B. 4. 16. See Tit. *Conspiracy.*

Where Inditements of Trespasses, or other Misdeeds personal, &c. are good; and Bars in them. B. 9. 113, 118. See Tit. *Bar.*

The Office of the Justice upon a vitious Inditement. B. 4. 45.

Where an Inditement, or Presentment, &c. are not traversable, where contrary. See Tit. *Bar.*

Where a Man may be indited and arraigned, notwithstanding an Appeal hanging against him, or not. See Tit. *Appeals.*

Where a Man once acquitted shall be again indited and arraigned. See Tit. *Appeals*, and *Crown.*

Of Accusation by Inditement, &c. See Tit. *Accusation.*

Where Verdict at large may be given upon Inditement of Murder, Felony, or &c. and what Verdict is good, what not. See Tit. *Crown.*

Where Conspiracy lies against Inditors, &c. and what shall be a good Inditement for them, what not. See Tit. *Conspiracy.*

What shall be a good Inditement upon the Statute 8 *H. 6.* of forcible Entry, what not. See Tit. *Forcible Entry.*

*Enfant.*

Levies a Fine, how, and within what Time he must avoid it. B. 1. 76. b. 2. 57, 58, 77. b. 11. 69, 77. See Tit. *Error.*

Where a Feoffment, or Lease by an Infant is void, or voidable, and where good by Acceptance, &c. B. 4. 125. b. 5. 2 p. 27. b. 8. 42, 43. See Tit. *Acceptance.*

Where a Release, or Confirmation made by an Infant will be good, and bind him. B. 5. 2 p. 27. See Tit. *Acquittance.*

Where a Contract by an Infant shall bind him, or not. B. 9. 87.

Where an Infant shall be charged for Waste done, and Recovery against him shall bind him. B. 8. 44.

Where

Where Usurpation upon an Infant, by Presentation to a Church shall bind, and put him out of Possession, or not. B. 6. 49, 50. b. 11. 33. See Tit. *Statutes, W. 2. c. 5.*

Where an Infant bound by Warranty collateral descended upon him during his Nonage. B. 1. 140.

Where an Infant is to be excused for a Breach of a Condition in Deed, or Law, by his Nonage, or not. B. 8. 44.

Where a Stranger shall take Advantage of the Nonage of an Infant, and avoid Estates made by him, or not. B. 1. 140. b. 3. 13. b. 4. 125. b. 7. 8. b. 8. 43, 44. See Tit. *Age, and Dum fuit infra aetatem.*

Where an Infant in his Mother's Belly shall be vouched, and what Things he shall have, and his Capacity to take, &c. B. 7. 9. b. 10. 32. See Tit. *Capacity.*

Where an Infant, &c. shall falsify a Recovery had against him during his Nonage, or not. B. 6. 8. b. 8. 44. 100. See Tit. *Falſe Recovery.*

Infant Lord of a Manor grants a Copyhold, it shall bind him. B. 4. 23. b. 8. 63.

Declaration of Use of a Fine levied by him, good, and binds him. B. 2. 58. See Tit. *Uses.*

The King an Infant shall not avoid a Grant, because of his Nonage. B. 5. 2 p. 27. b. 7. 10, 12. *Calvins's Case.* See Tit. *King, and Prerogative.*

Where an Infant is not to be amerced, but if he be, is pardoned in Action brought by him. B. 5. 2 p. 49. b. 8. 61. See Tit. *Amercement.*

Where an Infant shall sue by Guardian, and how the Entry shall be in the Roll. B. 4. 53, 54. See Tit. *Attorney.*

Where an Infant is bound by Nonclaim within a Year and Day upon Waif and Estray. B. 5. 2 p. 108. See Tit. *Waif and Estray.*

Where a Corporation shall not avoid their Grant, &c. because of Infancy of their Head, and Sovereign. See Tit. *Corporation.*

Where and what Statutes bind the

Infant, what not. B. 3. 91. b. 8. 44, 100. See Tit. *Continual Claim, &c.*

Where an Infant is bound by Nonclaim within Five Years upon a Fine levied, and how the Five Years shall be accounted. See Tit. *Continual Claim, Computation, and Statute 4 H. 7. c. 24.* there.

Where the Infant shall be charged by Cessing of Services, and Recovery in *Cessavit*, shall bind him for ever. See Tit. *Cessavit.*

Where an Infant shall attorn, and where not. See Tit. *Age, and Attornment.*

Where a Testament, or Devise by an Infant shall be good, or not. See Tit. *Testament.*

Where an Infant shall enter upon Discent of the Bastard eigne, by Reason of his Nonage. See Tit. *Bastardy.*

Where an Infant is bound by Statute-Merchant, Staple, or Recognizance, or not. See Tit. *Audita querela.*

Where the Infant Plaintiff in *Per quæ servitia*, or &c. shall acknowledge the Acquittal, Warranty, or other Advantage to the Defendant, and shall be bound by it. See Tit. *Attornment.*

Where Age shall be granted, and the Plea demur in *Partitione facienda.* See Tit. *Age.*

Where an Infant may make Attorney, and appear by Attorney, or not. See Tit. *Attorney.*

Where Entry shall be lawful upon Discent, because of Nonage. See Tit. *Entry Congeable.*

Where Age shall not be granted in Assize, &c. but the Circumstances shall be inquired of to his Advantage. See Tit. *Age, and Assize.*

Where Alienation of an Infant shall be good by Custom. See Tit. *Custom.*

Where an Infant shall be barred by his Acceptance. See Tit. *Acceptances.*

Where Disclaiming lies for an Infant in a Writ of Right, &c. See Tit. *Disclaiming.*

Where Process shall be awarded to make the Infant come to be viewed. See Tit. *Process.*



Enfranchisement.

Where Enfranchisement of a Villain, or Nief shall be by Espousals, and for what Time. B. 4. 55.

Where Enfranchisement of a Villain shall not be by Attornment. B. 9. 85. See Tit. *Attornment*.

Where Enfranchisement shall not be by Feoffment to a Villain by the Tenant of the Lord by Collusion. B. 11. 77.

Where Enfranchisement of a Villain shall be by Action brought by the Lord against him. B. 11. 77.

Where a Villain shall be enfranchised by Abiding a Year and Day in ancient Demean. B. 5. 2 p. 107.

Where a Villain of the King shall not be enfranchised by Grant of Land, &c. to him by the King. B. 5. 2 p. 56.

Where a Villain shall be enfranchised for ever, and where but for a Time. B. 4. 55.

Where Enfranchisement shall be by Matter *in pais* to which the Lord is Party, or not. B. 4. 55. b. 9. 85. b. 11. 77.

Where a Villain shall be enfranchised by Matter of Record, to which the Lord is Party, or not. B. 5. 2 p. 56. b. 11. 77.

*Informations.* See Tit. *Informations*.

Enheritance.

Where a Man shall have an Estate of Inheritance without the Word (Heirs) by Grant, Devise, &c. or not. B. 1. 85 to 87, 100, 103. b. 3. 21. b. 4. 29. b. 5. 2 p. 112. b. 6. 16, 17, 27. b. 10. 57. See Tit. *Estates*.

Where no Estate shall be of Inheritance by Feoffment, Grant, or &c. though the Word (Heirs) are within the Decd of Feoffment, Grant, or &c. B. 1. 46, 43, 66, 85, 104, 140, 147, 155. b. 2. 21, 23, 24. b. 4. 29. b. 5. 2 p. 112. b. 8. 27.

Where two have joint Estates for Life, and several Inheritances. B. 1. 84. b. 8. 87. See Tit. *Estates*.

May descend, not ascend. B. 3. 40. See Tit. *Discent*.

Where Attainder of the Father shall be Corruption of Blood in the Sons, so that they shall not inherit to the Father, or other Ancestor. See Tit. *Corruption of Blood*.

In Chattels, and where the Heir shall have them as Parcel, or Incident to the Inheritance. See Tit. *Chattels*.

Who shall be Heir, and have the Land by Discent, who not. See Tit. *Discent*, and *Heir*.

Inquest.

Where several *Venire facias*'s shall be awarded to have the Inquest, or but one joint *Venire* upon one, or several Issues. B. 8. 66. b. 11. 5, 6.

Where the Defendant shall have *Venire facias*, to have the Inquest with Proviso, or without, or not. B. 10. 104.

How a *Venire facias*, or &c. of the *Tales* shall be awarded, and how many of the *Tales* may be, or not. B. 10. 104, 105.

Where the Inquest shall be taken of the *Tales*, the *Venire facias*, or principal Panel being quashed, or where by the principal Panel but one or two are returned. B. 10. 104, 105.

Where the Inquest shall not be taken for Defendant in the Process, or Defect in the Return of the Sheriff, or &c. B. 5. 2 p. 36, 41, 42. b. 6. 14. b. 8. 66. b. 10. 104, 119. b. 11. 7.

Where a *Venire facias* anew shall be awarded, or not. B. 5. 2 p. 36, 37, 41, 42. b. 6. 14. b. 8. 66. b. 11. 7. b. 10. 104.

Where the Inquest shall be discharged, and for what Causes. B. 8. 65, 66.

Which are Inquests of Office, and where to be taken, and what shall ensue upon them. B. 10. 119.

Where the Inquest shall find Matter of Record, where it ought to take Notice of it, upon Pain of Attaint, and their Finding it good. B. 1. 8, 9, 28, 35, 41, 168, 169. b. 2. 19, 20,

20, 25, 50, 57, 70, 91. b. 3. 7, 69. b. 4. 64, 65, 101, 102. b. 5. 1, 2. and 2 p. 3, 99, 104. b. 7. 121. b. 8. 67. b. 9. 3, 8. b. 11. 9, 19.

Where the Inquest shall try, and find a Spiritual, and take Knowledge of it upon Pain of Attaint, or not. B. 4. 29. b. 5. 2 p. 98, 104. b. 7. 53.

Where the Inquest shall try and inquire of a Thing done beyond Sea, or in *Scotland*; or not. B. 6. 46, 47. b. 7. 23, 26, 27. *Calvin's Case*.

Where the Inquest may, and must find Matter of Estoppel, and good. B. 4. 53.

Where the Inquest is not estopped by Pleading of the Parties, but are at large to find the Truth of the Matter. B. 2. 4, 75. b. 4. 53, 126. b. 5. 2 p. 30. See Tit. *Estoppel*.

Where the Inquest shall take Notice of, and find Matter in a foreign County, and their Finding and Verdict upon it good. B. 5. 2 p. 56. b. 6. 46. b. 7. 2.

Where the Inquest shall not be charged with Matters in Law, and if they meddle with them, and find them, their Finding as to them to be nothing, and void. B. 2. 75. b. 4. 42, 53. b. 5. 5. b. 6. 6. b. 7. 1. b. 8. 115. b. 9. 12, 13, 23, 25, 30. b. 10. 92. b. 11. 10.

How the Justices may order the Inquest, and their Authority to punish them for Eating and Drinking. B. 5. 2 p. 40. b. 8. 41. b. 11. 43. See Tit. *Amercement*, and *Fines to the King*.

Where the Party shall have Avail of Estoppel found by the Inquest, tho' not pleaded. B. 4. 53.

From what Review and County shall the Inquest come upon Trial of Issues, and from what not. See Tit. *Wifne*, and *Trial*.

To whom a *Venire facias*, or *&c.* to have an Inquest, shall be awarded, see above, and Tit. *Coroners*.

Where the Inquest shall be of Two Counties, or not. See Tit. *Affixe*.

How Proceſs shall be awarded against the Inquest, when one Party is an Alien born, and how the Inquest shall be taken. See Tit. *Alien*.

Where after Issue joined for Parcel, or one Def. and Demurrer, for the other Party, or Parcel, no Proceſs shall issue against the Inquest, but it shall cease, because of the Demurrer, and where contrary. See Tit. *Demurrer*.

Of Election of the grand Inquest in the Writ of Right, and the Order of it. See Tit. *Right*.

Where the Inquest shall be demanded and amerced. See Tit. *Amercement*.

What Writings, or Records given in Evidence shall the Inquest have with them. See Tit. *Evidence*.

Where the Inquest shall be taken in a Writ of Right, instead of the grand Affize. See Tit. *Right*.

Where the Inquest of Office, or other assesses all the Damages, &c. See Tit. *Damages*, and *Attaint*.

Where the Inquest ought to sever the Damages against the Defendant, or not. See Tit. *Damages*, and *Apportionment*.

Where the Inquest ought to sever the Damages which the Plaintiff is to recover. See Tit. *Damages*, and *Apportionment*.

Where the Inquest ought to sever the Costs and Damages. See Tit. *Damages*.

Where the Inquest shall be supplied from the Standers by. See Tit. *Furors*.

Where the Inquest shall enquire of, and try the Intent of a Man, and where they shall be charged to inquire of it. See Tit. *Trial*.

What Return of the Sheriff shall be good upon a *Venire facias*, *Habeas corpora*, or Distress against the Inquest. See Tit. *Return of the Sheriff*.

Where the Parties shall have Avail of a Condition found by the Inquest, without pleading, or giving it in Evidence, or no. See Tit. *Monstrance of Deeds*, and *Verdict*.

Where Trial shall be by the first Jurors, and others, or by the first Jurors alone. See Tit. *Trial*.

Where the Inquest shall try a Thing before the Time of Memory,

or not. See Tit. *Trial*, and *Grants of the King*.

Inquest demanded upon Pain. See Tit. *Pain*.

Where the Inquest shall fine to the King, and for what Offences and Misdemeanors. See Tit. *Fine to the King*.

Of Challenges to the Inquest, or to the Jurors. See Tit. *Challenge*.

*Enrollment*. See Tit. *Inrollment*.

*Entendment*.

Where a Writ shall be good by Intendment. B. 3. 44. b. 8. 119. See Tit. *Writ*.

Where Plaintiff in Assize shall be good by Intendment. B. 8. 57. See Tit. *Plaint*.

Where a Count shall be good by Intendment, or not. B. 3. 1, 2. b. 5. 2 p. 120. b. 8. 57, 133. b. 10. 54. See Tit. *Count*, and *Plaint*.

Where Avowry shall be good by Intendment, or not. B. 3. 1, 2. b. 7. 23, 25. See Tit. *Avowry*.

Where a Bar shall be good by Intendment, and good if it be Certainty to common Intendment. B. 3. 1, 2. b. 5. 2 p. 121. b. 8. 57. b. 10. 59. See Tit. *Bar*.

Where Verdict shall be good by Intendment, or not. B. 3. 9. b. 4. 65. b. 5. 2 p. 5, 35, 96, 108, 122. b. 9. 51, 68, 69, 74. b. 10. 57. See Tit. *Verdict*.

Where an Intendment shall be good by Inditement, or not. B. 4. 40, 41, 48. See Tit. *Enditement*.

Where the King's Grant shall be taken and construed by Intendment, and if Two Intendments be, which shall be taken. See Tit. *Grants of the King*.

Where the King's Prerogative shall be taken by Intendment, and the best he intended for him. See Tit. *Prerogative*, and *Grant of the King*, and *Tenure*.

Where Estoppel shall be by Intendment of that which is intended and implied within the Record. See Tit. *Estoppel*.

Where a Deed, or Grant, &c. shall be void, because of Want of Intendment. See Tit. *Deeds, Grants, and Gifts*.

Upon Feoffment, Grant, or &c. without limiting any Estate, and what Estate the Feoffee, Grantee, or &c. shall have. See Tit. *Estate*, and *Devises*.

Upon speaking of Escuage generally. See Tit. *Escuage*.

Upon Speaking to make Proof generally. See Tit. *Condition*, and *Witnesses*.

Upon Speaking of *J. S.* or &c. generally who shall be intended, the Father, or Son. See Tit. *Writ*.

Upon Speaking of Courts, and what Courts shall be intended Courts of Record, in which a Man shall sue for Penalties, &c. See Tit. *Courts*.

Upon Speaking of the Feast of Saint Michael, where, &c. what Feast shall be intended. See Tit. *Exposition*.

Where the special Reservation of the Party destroys the general Intendment of the Law. See Tit. *Reservation*.

Where the Intention of the Parties shall direct the Assurance of Lands, and Uses, and the Intent of the Parties is more regarded than the strict Words of a Deed. B. 1. 99, 100, 101. b. 2. 75, 76, 77. b. 5. 2 p. 26. b. 6. 33, 64. b. 8. 94, 155. b. 9. 9, 10. b. 11. 15. See Tit. *Uses*, and *Deeds*.

Where the Condition of an Obligation shall not be said performed, if the Intent of the Parties be not performed, tho' the Words be fully performed, and contrary. See Tit. *Condition*.

Where the Intent of a Man shall be tried and inquired as a Thing material. See Tit. *Trial*.

Where by Grant, Feoffment, or &c. the Grantee, Feoffee, or &c. shall have other Things, or intermeddle in other Lands, to make that which is implied and intended in the Grant, or &c. See Tit. *Grants*.

Where a Plea that has two Intendments, shall be taken, and intended most strong against him that pleads it. See Tit. *Pleadings*.

Where

*Enterpleading. Entry in Lands, and Writ of Entry, Entry Congeable, &c.*

Where an Estate uncertain to whom, and of what Thing, &c. shall be guided by Intendment. See Tit. *Devise, Estates, Grants, and Misnaming.*

Where the Return of the Sheriff shall be good by Intendment. See Tit. *Return of the Sheriff.*

What Cause of Excommunication shall be intended where no Cause is expressed. See Tit. *Excommunication.*

Where Tenure shall be according to the special Reservation of the Party, and not according to the general Intendment of the Law. See Tit. *Reservation, and Tenure.*

Where the Intent of the Testator is more respected in the Exposition of Wills, than the Words of the Testament. See Tit. *Devise.*

*Enterpleading.*

How Livery shall be made, where two are found Heirs to one Man, and when, and how they shall interplead. B. 7. 45. See Tit. *Livery.*

Where Interpleading shall be by two, where they are to have *Ouster la maine* of the King. See Tit. *Livery.*

Upon what Office Two shall interplead where they sue to have Livery, or &c. out of the King's Hands. B. 7. 45.

*Entry in Lands, and Writ of Entry.*

Where Entry shall make a Degree to have a Writ of Entry, in the *Per* and *Cui*, or in the *Post*. B. 1. 2. 125, 136. b. 3. 62. b. 4. 27, 28, 29, 71. b. 5. 2 p. 17, 113. b. 6. 79. b. 7. 9.

Where, when, for, and against whom a Writ of Entry in *Consimili Casu* lies, &c. where, when, for, and against whom not. B. 6. 8. b. 8. 48, 49. See Tit. *Stat. W. 2. c. 4. 24, 25.*

Form of the Writ of Entry in *Consimili casu*, and what Matter is sufficient to abate it, what not. B. 8. 49.

Where and of what Thing a Writ of Entry *Ad terminum qui prateriit* lies. See B. 8. 47. and *Demands.*

Where a Writ of Entry in the *Per*, or *Per* and *Cui* lies of an Office. B. 8.

47. See Tit. *Demand, Affize, and Plaint.*

Where a Man may have a Writ of Entry in the *Per*, or *Per* and *Cui*, or in the *Post*, at his Election, or not. B. 6. 9.

Where a Man may have an Affize, or Writ of Entry in the Nature of Affize of his own Possession. See Tit. *Election.*

Of the Writ of Entry *Causa matrimonii prolucuti*. See Tit. *Causa matrimonii prolucuti.*

Of the Writ of Entry *Cui in vita contradicere non potuit*. See Tit. *Cui in vita. Of Entry by Intrusion.*

Of the Writ of Entry *Dum non compos mentis*. See Tit. *Dum non compos mentis.*

Of the Writ of Entry upon Alienation *Dum fuit infra atatem*. See Tit. *Dum fuit infra atatem.*

Where a Man upon Recovery, or Fine levied shall be adjudged in Possession presently, without Entry, or Seisin. See Tit. *Continual Claim, Entry Congeable, Possession, and Recovery.*

Where upon a Condition broken a Man shall be adjudged in Possession presently, without Re-entry, or not. See Tit. *Conditions.*

Where a Man shall have Trespass, and punish the mean Trespass without Re-entry, or not. See Tit. *Trespass.*

Where a Condition giving Entry to a Stranger, is void. See Tit. *Conditions.*

Of Esplees alledged in Writs of Entry, how, and in which. See Tit. *Esplees.*

*Entry in Lands, and Entry Congeable.*

Where Possession and Seisin in Lands, or &c. shall be reverted and adjudged in him that has Right without Entry in Deed, or not. B. 1. 85, 94, 97, 147. b. 2. 53. b. 3. 65, 84, 85. b. 4. 53. b. 6. 62. b. 8. 44, 95. See Tit. *Conditions, and Continual Claim.*

Entry in Lands, and Entry Congeable.

Where Entry of the Wife, or her Heir shall be lawful after Discontinuance by the Husband, or not. B. 1. 102. b. 3. 51, 59 to 61, 85. b. 5. 2 p. So. b. 8. 43, 44. b. 9. 141. See Tit. *Discontinuance of Lands*, and the Statutes 11 H. 7. and 32 H. 8.

Where Entry shall be lawful upon Descent, because of Nonage, and by whom, where, and for whom not. B. 4. 125. b. 7. 11. b. 8. 43, 44, 100. See Tit. *Enfant*, and *Dum fuit infra aetatem*.

Where Entry in Lands is lawful upon Descent, because the Owner during the Time was over Sea, or not. B. 8. 100.

Where Entry is lawful upon Descent after Recovery, Fine, &c. or not. B. 6. 51. b. 8. 72. b. 10. 27, 38. See Tit. *Falsifying of Recovery*, and *Remitter*.

Where Entry upon Descent shall be lawful, because of Privy of Blood, or not. B. 1. 95, 98, 102, 137. b. 3. 61, 62. See Tit. *Bastardy*.

Where Entry of the Disseisee shall be lawful upon Descent, or not. B. 4. 22, 23. b. 7. 11. b. 8. 101. b. 11. 33. See Tit. *Continual Claim*.

Where the Entry of the Disseisee is lawful upon the Lord by Escheat. B. 4. 58. b. 8. 101.

Where the Entry of the Heir is lawful, where the Entry of the Ancestor was not. B. 1. 111. b. 3. 60. b. 4. 125. b. 8. 43. See Tit. *Ideot*.

Where the Entry of the Heir is lawful, because of Right descended to him. B. 8. 43, 44.

Where the Entry of him in Reversion, or Remainder is lawful, notwithstanding Recovery had against Tenant for Term of Life. B. 1. 16. b. 3. 2, 60. See Tit. *Falsifying of Recovery*, and *Forfeiture*, and *Statutes*, 32 of H. 8. c. 31. 14 Eliz. c. 8.

Where Entry is lawful upon a Stranger to the Recovery, who comes in by a mean Estate, &c. B. 6. 51.

Where Entry is lawful upon Tenant in Dower after Descent, or not. B. 8. 101.

Where Entry is lawful upon Tenant by Courtsey, or upon the Issue after his Death, after Descent. B. 3. 34.

Where Entry of the Feoffees of him to whose Use, is lawful upon him to whose Use himself, and where the antient Use shall not revive, without their Entry upon a Stranger. B. 1. 101, 112, 126, 128, 130, 134. b. 7. 9. See Tit. *Uses*.

Where Entry shall be lawful, notwithstanding a Recovery against himself, or his Ancestor, or after Execution upon Recognisance sued, or not. B. 4. 66, 67, 82. See Tit. *Recognisance*, and *Damages*, and *Extent*.

Where Entry, or Recovery of one shall avail the other, and vest the Estate and Frank-tenement in him, and where the Entry of one shall advantage another. B. 8. 44. b. 9. 106, 140, 142, and 11. See Tit. *Continual Claim*, and *Remitter*.

Where Entry once taken away, and not lawful, shall become lawful after, by Matter of After-fact. B. 3. 34. b. 8. 43, 44.

Where the Entry of the Lessor, or &c. upon Lessee for Years, or &c. to see if Waste be done, shall be lawful, and how he ought to demean himself upon such Entry. B. 8. 146.

Where Entry and Seizure of Land by the King, or his Ministers shall be good without Office found, or not. B. 1. 42, 48. b. 2. 52. b. 3. 2, 3, 10, 11. b. 4. 54, 58, 126, 127. b. 5. 2 p. 55, 56, 109, 110. b. 7. 12, 13, 14, 25. b. 8. 169, 170. b. 9. 16, 95. b. 11. 12.

Where the King cannot enter into Lands, or seize them by Office found without a Writ of *Scire facias*, or other Process, or contrary. B. 2. 80. b. 3. 11. b. 4. 56, 58, 126. b. 8. 169. b. 9. 95, 96. b. 11. 12.

Where the King shall presently be in Possession of Land, or &c. by Office found, or not; till he has entred, or seized. B. 3. 11. b. 4. 58. b. 5. 2 p. 36. b. 9. 95, 96. b. 11. 12. See Tit. *Office before*, &c.

Where

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Where Entry may be upon the King's Possession without Livery sued, Petition, or *Ouster la maine*, or not. B. 1. 50, 133. b. 2. 53. b. 4. 55, 56, 59. b. 7. 32. b. 8. 76, 172. b. 9. 69, 98. See Tit. *Intrusion*, and *Livery*.

Where Entry into Lands for a certain Time is good, and may be. b. 3. 61. See Tit. *Condition*, *Forfeiture of Marriage*, and *Election*.

Where Entry may be in a Moieties, and the Estate stand for the other Moieties upon a Joint Demise. B. 4. 73. See Tit. *Joint Tenants*.

Where Entry into Lands may be, because of a Condition in Law, and which are Conditions in Law, which not. See Tit. *Conditions*.

Where Entry may be in Lands, or &c. for Conditions in Deed, and upon whom, and by whom. See Tit. *Condition*, *Assignee*, and *Statutes*, 32 H. 8. c. 34. there.

Where Entry into Lands, or &c. may be, by Reason of a Condition created, and added to an Estate by Defeasance. See Tit. *Circuity of Action*.

Where Entry, or Re-entry may not be in Lands, &c. for a Condition, without Demand of the Rent reserved upon the Lease, &c. and what Demand is good, what not. See Tit. *Demand*.

Where entry shall not be for a Condition, &c. because of Acceptance of Rent after the Condition broken, and where contrary. See Tit. *Acceptance*.

Where the Lessor, Feoffor, or &c. by Re-entry for a Condition broken shall be adjudged in his former Estate, and to what Intents, and the Estate avoided from the Beginning, and to what not. See Tit. *Condition*.

Where the Lord of a Villain shall not have an Estate in Lands, or Goods of the Villain, without Entry, Seizure, or Claim. See Tit. *Continual Claim*.

Where the Entry of the Husband shall vest the Estate in the Wife, or not. See Tit. *Baron and Feme*.

Where Entry of the *Mulier* may

be upon Descent during his Nonage. See Tit. *Bastardy*.

Where an Infant may enter, notwithstanding his Feoffment, Lease, or &c. See Tit. *Infant*, and *Assurance*.

Where Entry may be upon Descent during the Time of Imprisonment. See Tit. *Duress*.

Where Entry of a Parson, Prebend, &c. may be, notwithstanding Alienation of their Predecessor. See Tit. *Continuance*.

Where Entry may be, because of his own Feoffment of his Ancestor, by Cause of unsound Memory. See Tit. *Dum non compos mentis*, and *Idiota*.

Where the Issue in Tail may enter, notwithstanding the Exchange of his Ancestor. See Tit. *Exchange*.

Where the Lord may enter for Escheat, upon the Death of his Tenant without Heir, or not. See Tit. *Escheat*, and *Infant*.

Where Entry of the Lord in Right of an Infant his Ward is lawful, or not. See Tit. *Ward*, and *Collusion*.

Where Entry may be, because of Forfeiture, by Alienation, to the Disinheriting, &c. or not. See Tit. *Forfeiture*, and above.

Where Entry may be, because of Assent to Rape. See Tit. *Rape*, and *Statutes*, 6 R. 2. c. 6. 4. 5. P. & M. c. 8.

Where Entry may be against his own Release, or Confirmation, because of Right, or Title accrued of late Time. See Tit. *Releases*, and *Confirmation*.

Where the Entry of him to whose Use shall be Disseisin to the Feoffees, or no, &c. See Tit. *Uses*.

Where Entry may be for Right, notwithstanding Release of Actions. See Tit. *Right*.

Where the Devisee may enter Lands, or &c. devised unto him, without Assent of the Executors, or not. See Tit. *Devise*.

Where an Action of Trespass may be maintained, and against whom without Re-entry, and against whom after Re-entry, against whom not. See Tit. *Trespass*.

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Where Tenant at Will may enter upon a Disseisor, or not. See Tit. *Tenant at Will*.

Where he that enters into Land, or &c. of another, by Course of Law, shall be a Trespasser from the Beginning by Matter of other Fact. See Tit. *Justification*.

Where Entry of the Son, or Daughter born after may be lawful upon the Uncle, &c. who entred as Heir. See Tit. *Descent, and Vesting, and Devesting*.

Where Entry of the Executors upon a Devise made that they shall sell the Land, or &c. may be upon a Descent. See Tit. *Devise*.

Where Entry of one remits his Companion, or not. See Tit. *Remitter*.

Where Entry in the Land of another is lawful by Reason of Common claimed. See Tit. *Common*.

Where Entry in the Land of another is lawful to distrain, &c. or not. See Tit. *Distress*.

Where Executors may enter the Heir's Land, to take, &c. See Tit. *Chattels, and Devise*.

Where and what Entry of the Heir after Death of the Ancestor, where the King is to have Ward, or Primer Seisin, is Intrusion upon the King's Possession, or not. See Tit. *Intrusion*.

Where Entry cannot be against the Patentee of the King, without *Scire facias* sued against him upon *Traverse, Tender, or Petition* to the King. See Tit. *Scire facias, Petition, and Traverse to Office*.

Where a Stranger to a Recovery may enter and falsify the Recovery without Action sued. See Tit. *Falsifying Recovery*.

Where a Woman may enter, and take her Dower without Assignment. See Tit. *Dower*.

Where the Heir, or &c. may enter for Forfeiture of the Jointure to the Wife, by her Alienation against the Statute, 11 H. 7. c. 20. See Tit. *Statutes*.

Where the Assignee of a Reversion may enter for a Condition broken,

and what Assignee. See Tit. *Statutes, 32 H. 8. c. 34. Assignee, and Conditions*.

Entry of Pleas.

Form of Entry of a Warrant of Attorney, where another Thing than Land is demanded. B. 4. 87. See Tit. *Demand*.

Form of Entry of Pleas, and where the Entry shall be in Latin, tho' the Pleading was in another Language. B. 10. 132. See Tit. *Statutes, 36 E. 3. c. 15*.

Where upon a Plea pleaded, an Issue joined, the Entry shall be, and of this he puts himself upon the Country, and where, he requests that it may be inquired by the Country. B. 10. 54, 59.

Form of Entry, and titling Records in the King's Bench. B. 9. 99.

Form of Entry of Verdicts, &c. and where the Entry is to be, That the Jurors were elected, tried, and sworn. B. 9. 101. twice.

Form of Entry of Continuances of Pleas in Courts, and the Difference of Entries in the several Courts. See Tit. *Continuances, and Courts*.

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Form of Entry of Admittance of a Guardian for an Infant, where he sues by a Guardian. See Tit. *Infant*.

Whereupon for Parcel, and Issue joined for another, Entry shall be of the Process continued against the Inquest. See Tit. *Demurrer*.

Where the Court of Office, and by Discretion, may enter and record a Thing done Two or Three Terms after, or not. See Tit. *Office of Court*.

Form of Entry of a Clerk delivered to the Ordinary. See Tit. *Clergy*.

Form of Judgment upon a Writ of Error. See Tit. *Error*.

Where special Matter shall be entered for Evidence, or not. See Tit. *Evidence*.

Form of Entry of Non-suit, and upon what Roll to be entred. See Tit. *Non-suit*.

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Form of Entry of *Retraxit*. See Tit. *Retraxit*.

Form of Entry of Departure in Despight of the Court. See Tit. *Departure in Despight, &c.*

Form of Entry of Verdicts. See Tit. *Verdicts*.

Form of Entry of Judgments. See Tit. *Judgments*.

Form of Entry of Executions. See Tit. *Executions*.

Form of Entry of an Excommunication pleaded. See Tit. *Excommunication*.

Entry of Judgment upon a Writ, or Count abated, or when the Plaintiff is barred. See Tit. *Judgment*.

Form of Entry upon Disclaim. See Tit. *Disclaim*.

*Equipollent.*

Where a Condition to pay Money, &c. shall be satisfied, and performed by way of retaining, and that to countervail Payment in Fact, or not. See Tit. *Condition*.

How a Condition to pay Money shall be satisfied and performed, and what is Satisfaction to countervail Payment, what not. See Tit. *Conditions*.

What is Attornment in Fact, and what Acts shall countervail Attornment in Law. See Tit. *Attornment*.

Where an Office taken before Commissioners, shall be equipollent with an Office taken before the Escheator. See Tit. *Offi. e before, &c.*

*Error.*

Form of the Writ of Error, and where it shall be, which before you resideth, and what Matter is sufficient to abate it, what not. B. 3. 1, 2, 15. b. 4. 93. b. 5. 2 p. 111. b. 11. 38.

In Fact, and what Thing may be assigned for Error in Fact; where, and what not. B. 5. 2 p. 39, 44. b. 6. 14.

Where Error may be assigned in granting, or denying Age, Aid, Voucher, View, or &c. or not. B. 8. 58, 59. b. 9. 16, 28, 29. b. 11. 40.

Where no Error to suffer a Man to make Attorney, where he ought not by Law. B. 8. 58, 59. See Tit. *Attorney*.

Where Error is in a Writ of Debt, because in the *Debet*, where it ought to be in the *Debet* and *Detinet*, or contrary. See Tit. *Debt*.

Where Error shall be assigned in Trials, because the *Venire* was not from Two, or Three Towns, as it ought. See Tit. *Vifne*.

Where Error, &c. because the Name of the Sheriff, or &c. was not put to the Return. See Tit. *Return of the Sheriff*.

Where Error, &c. in Entry of Verdicts for Defend. of the Words that the Jurors were elected, tried, and sworn. See Tit. *Entry of Pleas*.

Where Error shall be assigned in Entry of Judgments, because one of the Parties, Plaintiff or Defendant, was dead at the Time, &c. See Tit. *Judgments*.

Where Error shall be assigned in Judgments, and the Entry of them upon the Writ of Count abated, or Judgment that the Plaintiff shall be barred. See Tit. *Judgments*.

Where Error, &c. in Outlawry, because the Party was over Sea at the Time, &c. See Tit. *Uslawy*.

Where Error shall be assigned in awarding Execution. See Tit. *Execution*.

Where Error shall be assigned in granting a *Nisi prius*, or &c. See Tit. *Nisi prius*.

Where Error may be assigned in joining in Action, or not. See Tit. *Joining in Action*.

Error not to be assigned in a Thing to his own Advantage. B. 5. 2 p. 39, 44. b. 7. 4. b. 8. 59.

Where Error shall be assigned in Fines levied of Lands, or &c. by an Infant, or other Matter, and what Matter is Error, and within what Time Fines ought to be reversed for Nonage. B. 2. 57, 76, 77. b. 5. 2 p. 38, 44, 45. b. 8. 58. b. 11. 69, 77. See Tit. *Infant*, and *Laches*.

Where Error shall be assigned in Misreturn of the Sheriff, in Avoydance



dance of Outlawry. See Tit. *Utlary*.

Where Error cannot be assigned upon Judgment given upon Attainder of Felony, &c. B. 6. 14.

Where Error shall be assigned upon Recovery for Default of Original. B. 3. 5. 6. b. 5. 2 p. 37, 39. See Tit. *Falsifying of Recovery*.

In Law, and what may be assigned Error in Law, what not. See Above.

Form of assigning Errors, and where, and when the Plaintiff ought to assign them. B. 1. 12, 35. b. 5. 2 p. 39, 44.

Where Writ of Error lies by, or against the King, upon Judgment erroneous, or not. B. 1. 34, 42. b. 3. 1. b. 4. 89, 90. See Tit. *Attainr*.

Who shall have a Writ of Error, and where it lies for the Executors, where for the Heir, and who shall be said Heir to have it, or not. B. 5. 2 p. 32, 38, 40, 43, 90, III. b. 8. 62, 65.

Where Error lies for the Garnisher. B. 5. 2 p. 90.

Where Error lies for him in Reversion, or Remainder in the Life of Tenant for Life, or after. B. 3. 4, 61. b. 9. 141. b. 10. 44.

Where a Writ of Error lies not against Disclaim. B. 8. 61, 62.

Where a Man may maintain a Writ of Error against his own Confession. B. 8. 62.

Where and what Record is sufficient upon which Errors may be assigned; where Parcel of a Record, or not. B. 11. 39, 41.

Where Diminution shall be alledged in a Writ of Error, and by whom, and whom not. B. 5. 2 p. 44, 47.

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In what Court, and how Judgment given in the Exchequer shall be re-

dressed. B. 1. 11, 34, 38. b. 8. 58, 65, 68. b. 11. 59.

In what Court Judgment erroneous given in the King's Bench in *Ireland* shall be redressed. B. 7. 18. *Calvin's Case*.

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No Error lies upon Judgment given in the County-Court. B. 6. 11, 12. See Tit. *False Judgment*, and *Suitors*.

No Error lies upon Judgment erroneous, given in Court-Baron. B. 6. 11, 12. See Tit. *False Judgment*.

Where Writ of Error lies upon Judgment erroneous, given in the Court of Piepowders. B. 6. 11, 12. See Tit. *False Judgment*.

Where Writ of Error lies upon Judgment given before Justices in Eyre. B. 9. 28.

How and in what Court Judgment erroneous given in *Wales* shall be redressed. B. 5. 2 p. 85.

Where a Writ of Error lies upon Judgment erroneous given upon a Writ of Redisseisin. B. 6. 12. b. 8. 143.

Upon Judgment erroneous given upon Attainder of Murder, or &c. it lies not. B. 6. 14.

The Writ of Error ensues the Nature of the first Action, in which Judgment erroneous was given. B. 6. 25.

Where Judgment erroneous given in any Court shall be redressed and amended by the same Court by a Writ of Error, or without it. B. 3. 59. b. 8. 137, 143, 144. See Tit. *Amendment*, and *Utlary*.

Where Judgment erroneous shall be reversed by another Error, not assigned by the Party. B. 5. 2 p. 37, 58. b. 11. 8. See Tit. *Office of Court*.

Where Judgment erroneous shall be reversed, or amended by Plea, without suing a Writ of Error. B. 8. 142, 144, 157. See Tit. *Amendment*, and *Utlary*. B. 3. 59.

Bar in Writ of Error, and who shall plead it, and when; what shall be a good

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good Bar, what not. B. 1. 13, 16, 111, 112. b. 3. 1, 59, 61. b. 6. 25. b. 8. 7, 62, 152, 154. See Tit. *Releases*.

Where a Record in Parr, or against one, shall stand in Force against the other Part, or Person, or not. B. 1. 78. b. 2. 77. b. 3. 3. b. 5. 2 p. 32, 90.

Judgment in the Writ of Error for the Plaintiff, or Defendant in the former Action. B. 1. 40. b. 3. 4. b. 5. 2 p. 39, 89, 90, 111. b. 6. 7, 25; 45. B. 8. 96, 143. See Tit. *Restitution*, and *Uttery*.

Where and when Execution shall be awarded upon Judgment reversed, and in what Court. B. 1. 40, and 11. b. 10. 118. See Tit. *Statutes*, 31 F. 3. c. 12. 27 *Eliz.* c. 8. touching Errors, and Records.

Where by Reversal of a Record by a Writ of Error, another Record depending upon it is reversed and gone. B. 5. 2 p. 90. b. 8. 142, 152. b. 9. 119.

Where Amendment may be after a Writ of Error brought, and in what Thing, and what not. See Tit. *Amendment*.

Where the Court of Office shall not give Judgment if any Thing erroneous in the Writ, Count, or Process appear to them, or contrary. See Tit. *Office of Court*.

Where Summons and Severance lies in a Writ of Error, or not. See Tit. *Severance*.

Where Two shall join in a Writ of Error, or not. See Tit. *Joining in Action*.

Of Non-suit in a Writ of Error, and where Non-suit of one Plaintiff in Error is the Non-suit of all, or not. See Tit. *Non-suit*.

Where the Release of one Plaintiff in a Writ of Error shall bar all, or not. See Tit. *Join-tenants*.

Where an Act of Parliament may be erroneous, and the Parliament may err. See Tit. *Parliament*.

*Escape.*

Where and what shall be an Escape of a Prisoner for Debt, or other per-

sonal Duty, upon which the Sheriff, or Gaoler shall be charged, and what not. B. 3. 43, 44, 52, 68, 69, 72. b. 5. 2 p. 86, 87, 88. b. 8. 142. b. 9. 68, 98. See Tit. *Authority*.

Where Escape shall be, yet the Prisoner ever in the Gaol. B. 3. 69, 72.

Where an Escape is no Discharge of Execution, but he may be in Execution again, and he that let him at large, may retake him, or not. B. 3. 44, 52, 72. b. 5. 2 p. 86, 87. See Tit. *Audita querela*, and *Execution*.

Where and what shall be said negligent Escape, or voluntary in criminal Causes, where, and what not. B. 7. 6, 7.

Where and what shall be an Escape, upon which a Town, or Hundred shall be charged upon Felony, or Robbery, or not. B. 7. 6, 7. b. 11. 43. See Tit. *Amercement*.

How Escape shall be tried and adjudged. B. 11. 65.

Where Action of Debt, or the Case lies against a Sheriff, or Gaoler upon Escape of a Prisoner in Execution, at the Election of the Party. See Tit. *Election*.

Count in Debt, or *Sec.* against a Sheriff, or Gaoler, upon Escape. B. 3. 66, 67, 68. b. 4. 33.

Where a Man may retake Beasts, and distrain them after they have escaped out of his Land, *Sec.* or not. See Tit. *Distress*.

Where and what Escape in a Gaoler, or *Sec.* shall be a Forfeiture of his Office, what not. See Tit. *Forfeiture*.

*Escheator.*

How the Escheator shall demean himself in taking Inquests, *Sec.* and upon Return of them. B. 1. 42. b. 5. 2 p. 57. See Tit. *Exchequer*, and *Office before*.

Where Entry, or Seizure of Land for the King by his Officers is lawful without Office found before the Escheator, or not. See Tit. *Entry Contingible*.

The Mayor of London Escheator of London. See Tit. *London*.

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Where Trial shall be by Examination of the Escheator, if Lands be seized into the King's Hands. See Tit. *Aid of the King*, and *Examination*.

*Escheat.*

Count in the Writ of Escheat, Esplees are not to be alledged in it B. 4. 11. b. 3. 35. b. 8. 86. See Tit. *Esplees*.

Form of the Writ of Escheat, and what Matter is sufficient to abate it. B. 8. 86, 87.

Where a joint Writ lies not upon several Tenures. B. 8. 86, 87. See Tit. *Writ*.

Where a Writ of Escheat lies, and is maintained where the Tenant dies seized. B. 3. 35.

Where Entry of the Lord may be upon Death of the Tenant without Heir, without being put to a Writ of Escheat, or not. B. 3. 2. b. 4. 125. b. 8. 43, 44, 101. b. 9. 141. See Tit. *Infant*.

Of a Right, and how the Lord shall take Avail of it. B. 3. 35. b. 4. 125. b. 10. 112.

For the King, and where he shall have Escheat of Tenements, held of other Lords, and the Lords not, and where contrary. B. 3. 10, 112. b. 7. 10. b. 10. 112. See Tit. *Treason*.

Where the Lord by Escheat shall hold subject to the Charge imposed upon the Land by the Tenant, or not. B. 1. 122, 139. b. 8. 45.

Bar in Writ of Escheat, what good, what not. B. 8. 101. b. 9. 141. See Tit. *Infant*, and *Acceptance*, and *Bar*.

Issue in Writ of Escheat, and where Seisin is not traversable. B. 4. 11. See Tit. *Seisin*.

Of a Copyhold, who shall have it upon Attainder of Felony. B. 4. 30.

Upon dying seized of a Bastard without Heir, not. See Tit. *Bastard*.

Upon dying of an Infant without Heir, after Feoffment by him, not. See Tit. *Infant*.

Upon Death of an Ideot without Heir by him, not. See Tit. *Ideot*.

Where the Lord by Escheat may rebut by Warranty made to the Tenant. See Tit. *Warranty*, *Rebutter*, and *Assignee*.

Where and what Charters of the Land the Lord by Escheat shall have, what not. See Tit. *Charters*.

Where the Lord by Escheat shall not be seized to other Uses. See Tit. *Uses*.

Where Acceptance of Rent excludes the Lord of his Escheat of the Land, or not. See Tit. *Acceptance*.

Where a Writ of Escheat shall be maintained, supposing the Tenant died without Heir where he had Issue which survived him, or not. See Tit. *Discent*.

Where he that has Right, may enter upon the Lord who entred, because of Escheat. See Tit. *Entry Congeable*.

Where the Lord of whom the Land is held, shall have the Escheat of the Land, after the King his Year, Day, and Waste. See Tit. *Forfeiture*.

Where the Land shall escheat to the Lord, rather than descend to the Heir of the half Blood, or of the Part of the Mother, and contrary. See Tit. *Discent*.

Where Lands, which a Man attained for Felony, or *etc.* shall have after the Attainder, shall be forfeited to the Lord as Escheat, as well as those he had at the Time of the Felony. See Tit. *Forfeiture*.

Where Escheat of Land shall be, because of Alien born. See Tit. *Alien born*.

Where Escheat is, because of Bastardy. See Tit. *Bastardy*.

*Eschequer.*

Where and what Office found before the Escheator, shall be returned into the Court of Exchequer, what not. B. 1. 42. See Tit. *Office before the Escheator*.

Where and of what Matters and Pleas the Exchequer has Jurisdiction, and of what not; and other Matters concerning

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cerning this Court. B. 2. 16, 50. See Tit. *Courts.*

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Where he that is the King's Debtor ſhall have *Quo minus*, and who ſhall have it, who not. See Tit. *Quo minus.*

Where a Bill lies, and is maintained by the King againſt Accountants in the Exchequer, and who ſhall be ſaid an Accountant there, who not. See Tit. *Bill.*

Where and when Eſtreats of other Courts ſhall be certified and delivered into the Court of Exchequer, and how. See Tit. *Eſcheats.*

What Proceſs ſhall be awarded by Courſe of the Court of Exchequer, againſt the Inqueſt upon Iſſue joined there. See Tit. *Courts.*

Where the Record ſhall be remanded to the Court of Exchequer to award Execution upon Judgment reverſed, or affirmed in a Writ of Error. See Tit. *Error, and Remover.*

*Eſcuage.*

Certain, and incertain, and what ſhall make Knight-ſervice, what Tenure in Socage. B. 6. 19, 20. b. 4. 6.

What Service he that holds by Eſcuage incertain ought to do, and how, and when it ſhall be done. B. 9. 49.

Intendment of Eſcuage, upon general ſpeaking of Eſcuage. B. 6. 20, 21.

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*Eſſoin.*

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*Eſtates.*

*Estates.*

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What Estate the Grantee, or &c. shall have upon a Grant, or &c. generally without limiting any Estate certain. B. 2. 24, 55. b. 4. 29. b. 8. 85, 96, 154.

Where a Grant, Lease, or &c. shall be good for a greater Estate than the Grantor himself has, and shall be good, and stand after the Grantor's Estate determined. B. 1. 51, 134, 139, 146, 147. b. 2. 57. b. 3. 84. b. 4. 21 to 24. b. 6. 15. b. 7. 23. b. 8. 54. See Tit. *Extinguishment*.

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Where an Estate in Lands, or &c. made to Two in the future, where one only has the Possession, shall enure to both, and both take an Estate by it. B. 2. 21, 24. b. 9. 139. See Tit. *Confirmation*.

For Years, or Life upon Condition to have Fee, where, and when the Fee shall vest, when not. See Tit. *Condition*.

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Where by Words of the *Habendum* in Deeds, the Estate given by the Premises shall be charged, enlarged, or abridged. See Tit. *Deeds*.

Where an Estate in Lands, or &c. Land shall revert in the Feoffor, or &c. upon Condition broken, without Entry in Deed. See Tit. *Condition*.

Where an Estate by Condition broken shall be void from the Beginning, and the Lessor, or &c. adjudged in his first Estate by Re-entry, and to what Intents, what not. See Tit. *Condition*.

Where by Condition performed, or not; the Estate of the Feoffor shall be abridged, and become but a Term. See Tit. *Condition*.

Where Entry, or Claim of the Husband shall vest the Estate in the Wife,

Wife, and remit her, or not. See Tit. *Baron and Feme.*

Where Tenant of the Land cannot charge the Land by his Grant, with Common, Piscary, &c. during his Estate, or according to his Grant. See Tit. *Charge, Grant, and Extinguishment.*

Where an Estate in Rent, or &c. shall enlarge by Confirmation, of which there was no Reversion at the Time of Confirmation. See Tit. *Confirmation, and Grants.*

Where Confirmation to one, and one Estate, enures to all, and their Estates, &c. See Tit. *Confirmation.*

Where a Confirmation to the Husband and Wife shall give an Estate to the Party that had nothing before. See Tit. *Confirmation.*

Where an Estate shall be changed and abridged by a Confirmation, or not. See Tit. *Confirmation.*

Where an Estate lawfully vested shall be after devested, or not. See Tit. *Chattels, and Descent, and Vest, and Devest.*

Where an Estate, or Inheritance shall be in Chattels. See Tit. *Chattels.*

Where an Estate in Lands of one, made to others by Commissioners, shall be good, or not. See Tit. *Commissioners.*

What Words in Testaments and last Wills import an Estate in Fee, what Fee-Tail, and what but for Life. See Tit. *Devise.*

Of what Estate of the Husband the Wife shall have Dower, and where she shall be indowed of a Frank-tenement descendable, or Fee-simple determinable. See Tit. *Dower.*

Where an Estate in Use, or Remainder to the right Heirs, or one not being, nor known at the Time, &c. be good. See Tit. *Capacity.*

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Where two shall not acknowledge an Estate by Fine, without shewing in which of them the Fee rests, and where an Estate shall not be made by Fine to Two and their Heirs, but the Fee shall be to one of them in certain. See Tit. *Fines.*

Where a Fine upon Acknowledgment of Right, &c. changes their Estate, and gives a Frank-tenement to him that had no Estate before. See Tit. *Fines, and Confirmation.*

Where a Man may reserve to himself a less Estate than he had before the Assurance. See Tit. *Reservation.*

Where he that is of another Estate than that to which the Warranty was made, shall vouch, or rebut by the Warranty. See Tit. *Warranty, and Rebutter.*

Where a Grant to him that has Two Estates in him together is good, and how it shall enure. See Tit. *Grant.*

By Grant of all his Estate by him that has Two Estates in him, what Estate shall pass, and when, &c. See Tit. *Grant.*

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*Estoppel.*

What, and the Description of it. B. 1. 155. b. 2. 4, 56, 58. b. 4. 53.

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Where Estoppel is by Letters Patents of the King, and to whom, and whom not. B. 1. 43. b. 4. 71. b. 6. 15. b. 7. 14. b. 8. 8, 28.

Where Estoppel is for a certain Time, and indures but a certain Time. B. 4. 54. b. 6. 15.

Where Estoppel is to speak against that which is implied, and intended in the Record, or confessed and not denied in Pleading, or not. B. 4. 5.

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Where Estoppel is by Certificate of a Justice of Peace, or &c. or for a Thing by him recorded of Office, or not. B. 7. 14. b. 8. 121. b. 10. 16, 54. See Tit. *Certificate.*

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Where Issue in Tail is not bound by Matter of Estoppel, done by his Ancestor. B. 1. 96. b. 3. 3, 5, 6, 51, 88, 89, 90. b. 6. 7. See Tit. *Affurances*, *Averment*, *Falsifying of Recovery*, and *Fines.*

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Where Estoppel is by Act of Parliament. See Tit. *Parliament*, and *Remitter.*

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Where Estoppel is to Parties and Strangers by Certificate of the Bishop, or not. See Tit. *Certificate of the Bishop.*

Where

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Where Estoppel is by Inquest of Office to make Presentments, &c. and no Traverse shall be, and where contrary. See Tit. *Bar*, and *Traverse to Office*, &c.

Where Estoppel is by Fines levied, to whom, and of what Pleas and Averments, of what, and to whom not. See Tit. *Averment*, and *Fines*.

Where Estoppel is by Return of the Sheriff, or &c. or not. See Tit. *Averment*.

Where Estoppel is by Testament, or Letters of Administration, or not. See Tit. *Testament*, and *Administration*.

Where Inrolling of a Deed estops, whom, and whom not. See Tit. *Inrollment*.

Where Estoppel is by Warranty, and where a Stranger shall estop the Party by it, and in what Actions. See Tit. *Warranty*, and *Remitter*.

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Where Estoppel is by Exemplifications of Records, or &c. and under what Seals, what not. See Tit. *Exemplifications*.

Where Recovery, or Bar in an Action bars and estops in another Action, or not. See Tit. *Bar*.

*Estovers.*

Where Affize lies of Estovers, where of Parcel of Estovers, and how, &c. See Tit. *Affize*.

Common of Estovers, and how to be claimed, and what Title to them is good, what not. See Tit. *Common*.

*Estranger.*

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Where a Stranger to a Record, or Deed shall be estopped by it, or not. B. 4. 7. 1. See Tit. *Estoppel*, and *Averment*.

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Where a Stranger to Avowry shall estop the Avowant, to claim other Services than such as the Deed imports. See Tit. *Avowry*.

What Pleas a Stranger to the Avowry shall have, what not. See Tit. *Avowry*, and *Hors de fee*.

Where Notice by a Stranger to the Avowry ought to be given to the Lord, to make him change his Avowry, and is sufficient, what not. See Tit. *Avowry*.

Where a Stranger to the Warranty shall estop another, and rebut him by it, or not. See Tit. *Warranty*, and *Assigner*.

Where a Stranger to a Deed shall take Avail of it, and how, or not. See Tit. *Deeds*, and *Condition*.

Where a Deed shall be shewn to a Stranger, because he conveys a Title by it, &c. or not. See Tit. *Monstrance of Deed*.

Where Strangers to a Deed, if it be shewn in Court, shall take Avail of it. See Tit. *Monstrance of Deeds*.

Where a Stranger to a Deed, and Condition in it, shall enter for the Condition, &c. See Tit. *Condition*.

Where Entry may be by a Stranger to the Recovery, who comes in by a mean Estate, and where a Stranger shall falsify a Recovery, or not. See Tit. *Entry Congeable*, and *Falsifying of Recovery*.



## *Estranger. Estreapment.*

Where a Fine may be Fine to a Stranger to the original Writ of Covenant, or *&c.* and where not. See Tit. *Fines*.

How Conditions upon Estates in Lands, or Bonds are to be performed to, and by Strangers. See Tit. *Conditions*.

Where a Remainder may be destroyed by the Act of a Stranger, and by what Act. See Tit. *Remainder*.

Where an *Audita querela* lies by a Stranger to the Recognizance. See Tit. *Audita querela*.

Where a Stranger to a Record shall have a *Scire facias* to have Execution of it, or not. See Tit. *Scire facias*.

Where the Entry of a Stranger hanging a Writ, abates it, or not. See Tit. *Writ*.

Where Reservation of Rent may be to a Stranger, or not. See Tit. *Reservation*.

Where continual Claim made by one, shall avail another who is a Stranger. See Tit. *Continual Claim*.

Where Laches of continual Claim upon Fines levied shall bar Strangers. See Tit. *Continual Claim*.

Where a lawful Act shall become wrongful by Matter of After-fact done by a Stranger. See Tit. *Commandment*, and *False Imprisonment*.

Where a Writ lies and is maintainable by a Stranger to the Original. See Tit. *Error*.

Where Death of a Stranger abates a Writ. See Tit. *Writ*, and *Ward*.

Where Collusion may be averred by the Lord upon Feoffment to the Heir, and a Stranger. See Tit. *Collusion*, and *Ward*.

Where a Stranger to the Partition shall have the same Advantage with those who are Privies in Blood, and Parties to the Partition, or not. See Tit. *Partition*.

Where Agreement or Disagreement signified to a Stranger, is material. See Tit. *Agreement*, *&c.* and *Condition*.

Where Count in Action shall be against a Stranger to the Original, how, and when. See Tit. *Count*.

Where not Notice of the Death of a Stranger by whom is claimed, will excuse, *&c.* See Tit. *Notice*.

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Where Menace, or Durefs by a Stranger will avoid a Deed, as well as if it were done by the Party himself, to whom, *&c.* See Tit. *Durefs*.

Where a Mesnalty, or Seigniori shall be extinguished by the Act of a Stranger, as by the Tenant paravail, or the King's Seisin. See Tit. *Extinguishment*.

Where Arbitrement which concerns a Stranger in an Act to be done to him, or for him, or to which he ought to be Party, is good, or not. See Tit. *Arbitrement*.

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Where Vouching a Stranger not named in a Writ of Assize of Novel Disseisin shall not be admitted. See Tit. *Counterplea of Voucher*.

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### *Estreapment.*

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To whom the Writ of Estreapment is to be directed. B. 5. 2 p. 115.

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*Estreats.*

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What is good Evidence in a Writ of Annuity upon Issue upon Prescription, or not. B. 12. 13, 14. See Tit. *Annuity.*

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What is good Evidence upon Custom put in Issue, that a Woman shall have an Estate for Life, or during Widowhood. B. 4. 30. See Tit. *Custom, and Copyhold.*

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What shall be good Evidence in Action of Trespass upon Emblements taken upon Issue not guilty. B. 5. 2 p. 85, 106. See Tit. *Emblements.*

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Where a Thing spiritual shall be given in Evidence, and the Inquest ought to take Notice of it, or not. See Tit. *Enquest.*

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*Examination. Exaction. Ex assensu partium. Exception.*

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*Examination.*

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Where Examination shall be in Debt upon Arrearages of Account, of whom, how, and of whom not. B. 6. 53. b. 10. 103. See Tit. *Statutes*, 5 H. 4. b. 8.

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Of the Age of an Infant in *Audita querela* by him sued to avoid a Statute-staple, or &c. by him acknowledged; how, and when. See Tit. *Audita querela*.

Of Summons upon Writ of Disceit where to be tried by Examination, where by the Country. See Tit. *Disceit*.

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Where Trial is by Examination of Witnesses, and where Conviction shall be by their Examination without other Trial. See Tit. *Witnesses*.

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*Exception.*

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Of Exception in a Charter of Pardon, and where to be pleaded by the Party that would have Avail by it. See Tit. *Charter, and Pleading*.

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Where

*Exchange. Excommunication.*

Where a Man shall be compelled to atorn upon a Grant of a Reversion, without Saving, or Exception of Advantages, &c. See Tit. *Attornment*.

Where Entry into a Warranty upon Voucher shall be specially with Exception, and Saving his Action, Entry, or Rent. See Tit. *Voucher*, and *Profestation*.

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*Exchange.*

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Where Exchange with Assets descended, bars the Issue in Tail in For-

medon. B. 1. 96. See Tit. *Assets*, and *Election*.

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Where in Exchange Estates are to be equal. B. 11. 80.

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Where Excommunication within a County Palatine shall not be allowed in the Courts at *Westminster* of the Common Law. B. 8. 68. See Tit. *County Palatine*.

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Where the Sheriff shall be Trespasser in doing Execution upon a *Fieri facias*, or not. B. 5. 2 p. 91, 93. b. 6. 52. See Tit. *Fustification*.

Where Goods and Chattels shall be liable to Execution by *Fieri facias*, because aliened, or given by Collusion to defraud Creditors. B. 2. 25, 26. b. 3. 81, 82, 83. b. 5. 2 p. 60. b. 6. 18. b. 10. 56. See Tit. *Collusion*, and *Statutes*, 1 R. 2. c. 9. 3 H. 7. c. 4. 3 *Eliz.* c. 7.

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What is a good Return of the Sheriff upon *Elegit*, what not. B. 4. 65, 74. See Tit. *Extent*, and *Recognisance*.

How Execution shall be awarded against the Heir by *Elegit*, or *&c.* upon Recovery against him in Debt for the Death of his Father, and where the Land of his own Purchase shall be put in Execution. B. 3. 12, 13. b. 6. 47. b. 7. 20. b. 8. 52. See Tit. *Debt*, and *Assets*, and *Heir*.

Against the Heir upon Recognisance made, and acknowledged by his

his Father, and what Lands shall be put in Execution, and whether he shall have Contribution of the Feoffees of his Father. B. 3. 12, 13, 14. See Tit. *Contribution*.

Where a Lease for Years shall be delivered to the Party in Execution upon *Elegit*. B. 4. 74. b. 8. 96, 171.

Where Lands aliened by Fraud to prevent Execution, and defraud the Creditors, are liable, and shall be delivered in Execution upon *Elegit*. B. 2. 25, 26. b. 3. 81, 82, 83. b. 5. 2 p. 60. b. 6. 18. b. 10. 56. See Tit. *Collusion*, and *Statutes*.

Where a Man may pray Execution by *Elegit* upon a Recognisance, or *&c.* after the first Day, without staying till all the Days are incurred. B. 3. 22. b. 4. 94. b. 5. 2 p. 81. b. 10. 128. See Tit. *Debt*, and *Recognisance*.

Of what Lands, or *&c.* Execution shall be made upon a Recognisance, or Statute-Staple, or *&c.* by *Elegit*; and how, and when. B. 1. 62, 128, 147. B. 2. 52, 59, 77, 80. b. 3. 12, 13, 14. b. 4. 31, 65, 67. b. 5. 2 p. 86, 91. b. 7. 14, 19, 20, 21, 38, 39. See Tit. *Recognisance*.

Where a Man shall not have Judgment, *&c.* by *Capias*, *Fieri facias*, or *Elegit*, without suing a *Scire facias* first. B. 2. 37. b. 3. 12. b. 4. 65, 66. b. 5. 2 p. 88.

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Where Execution shall be awarded upon a *Nihil* returned, upon the first *Scire facias*, or not; but upon two *Nihil*s returned. B. 5. 2 p. 32, 88. b. 8. 142. See Tit. *Charter*.

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Where Execution shall be only against the Survivor upon a Judgment against Two, or more, or not; but against him, and the Heir, or Land-Tenants of the other. B. 3. 13, 14. See Tit. *Voucher*, and *Recovery in Value*, and *Join-Tenants*.

Where Execution shall be awarded against Mainpernours, and how. B. 5. 2 p. 70. See Tit. *Mainprise*.

Where upon Execution awarded against Two, or more, the Sheriff may deny the whole Execution upon one, and solely deliver his Lands, *&c.* in Execution, and good, or not. B. 5. 2 p. 119.

By *Habere facias seisinam*, and how it shall be executed, or upon Recovery how the Sheriff shall put a Man in Possession, and by what Thing. B. 1. 94, 97, 107. b. 5. 2 p. 91. b. 6. 51, 52.

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Where Execution shall be against Executors of their own Goods for Damages only, by their Plea or own Act. B. 8. 134. b. 9. 90, 94, 109. See Tit. *Executors*.

Where Execution shall be against Executors of their proper Goods for the principal Debt by their Pleading,

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Where Judgment shall be given, but Execution cease. See Tit. *Judgment*, and *Writ to the Bishop*.

Where Execution may be twice upon a Statute, or &c. or after Execution determined, or defeated, new Execution may be, or not. See Tit. *Extent*, and *Recognisance*.

Where the Recognisee who has the Lands in Execution shall hold over his Term of Extent. See Tit. *Recognisance*.

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Where the Executor of an Administrator shall not have Execution upon a Judgment in Action brought by the Administrator, nor contrary. See Tit. *Executors*, and *Administration*.

Of Execution upon Fines levied of Lands, and when a Fine shall be said executed, and what Execution. See Tit. *Fines of Lands*.

Where Exchange is void for Want of due Execution thereupon. See Tit. *Exchange*.

Where *Scire facias* lies against Executors to have Execution of Goods to them come of late Time by one formerly barred in Action brought against them. See Tit. *Executors*.

Where the Sheriff shall make Execution upon Judgment, &c. within a Franchise, or not. See Tit. *Non omittas*.

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143, 152, 153. See Tit. *Escape*, and *Audita querela*, *Corpus cum causa*, and *Releasfes*.

What Manner of Execution shall be awarded upon Judgment in the Marshalsea. See Tit. *Marshalsea*.

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Who may be an Executor. B. 5. 2 p. 27. See Tit. *Baron and Feme, Infant*, and *Monk*.

What Person may make an Executor, what not. B. 4. 61. b. 6. 23. b. 8. 144. See Tit. *Testament*.

What Chattels of the Testator the Executors shall have, what not. B. 2. 93, 94. b. 3. 12, 39. b. 4. 63, 65. b. 5. 2 p. 96. b. 7. 17, 23. b. 8. 118. b. 9. 97. b. 10. 51, 128, 129. b. 11. 92. See Tit. *Chattels*.

Where Executors of an Administrator shall not have Execution upon Judgment in Action brought by the Administrator, nor contrary. B. 1. 96. b. 5. 2 p. 9.

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Where Executors are chargeable, notwithstanding Recovery and Judgment against them at the Suit of others, because the Recovery was by Covin. B. 8. 132, 133, 134. b. 9. 109, 110.

Where Executors shall be charged by their proper Goods for the principal Debt, because of their Pleading, or own Act, and for what Act and Plea, what not. B. 8. 132, 133, 134. b. 9. 90, 93, 94, 109.

Where and what is *Devastavit* by the Executors of the Goods of the Testator, and how chargeable, and Execution to be against them for it. B. 4. 60. b. 5. 2 p. 28, 30, 32. b. 6. 19. b. 8. 132, 133. b. 9. 88, 109.

Form of the Writ of Debt against an Executor, or for an Executor, where in the *Debet* and *Detinet*, where in the *Detinet* only. B. 5. 2 p. 31, 35, 36. b. 8. 159. b. 10. 120. See Tit. *Debt*, and *Writ*.

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Where an Executor is chargeable for the Contract of the Testator without Writing, and where for the Trespas and Offence of the Testator, or not. B. 3. 24. b. 8. 133. b. 9. 87, 88, 89, 90. b. 10. 77.

Where an Executor shall have a sole Action without his Companion, or not. B. 9. 37. b. 8. 61. See Tit. *Severance*.

Where a Man may be Executor, tho' he refused Administration before the Ordinary. B. 9. 37, 38. See Tit. *Testament*, and *Administration*, and *Ordinary*.

Form of the Writ of Debt brought by, or against Executor, or Administrator; what is sufficient to abate it, what not. B. 4. 37. b. 5. 2 p. 32, 36. b. 8. 150. See Tit. *Writ*, and *Debt*, and *Administration*.

Where and who shall be said an Executor of his own Wrong, how chargeable, and what Thing done by him is good, &c. B. 5. 2 p. 30, 33, 34. b. 9. 34.

Where Action of Account lies, and is maintainable by, or against Executors, or not. B. 11. 89. See Tit. *Account*.

Where Executors shall have Arrearages of Annuity, and Action for them. B. 2. 36. b. 4. 49. b. 6. 4. b. 7. 39. See Tit. *Annuity*, and *Arrearages*.

Where the Executor shall maintain that Action of Debt, which his Testator could not living. B. 4. 50, 51. b. 5. 2 p. 118. b. 7. 3. See Tit. *Annuity*, and *Arrearages*.

Where the Executor shall have Arrearages of Rent-Service, or Rent-Charge, and Action to recover them. B. 4. 49. b. 7. 3, 39. b. 10. 127, 128, 129. See Tit. *Arrearages*, and *Statutes*. 32 H. 8. c. 37. b. 8. 64, 65, 118.

Where Debt for Rent reserved upon a Lease for Years lies and is maintainable against Executors, or not. B. 3. 23, 24.

Where Action of Waste lies against Executors. B. 5. 2 p. 12. See Tit. *Waste*.

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*Assumpsit*, made by the Testator. B. 9. 94. See Tit. *Action of the Case*.

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Where a Writ of Covenant lies, and is maintainable by, or against Executors, or Administrators upon the Debt of their Testator. B. 5. 2 p. 17. See Tit. *Covenant*.

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Where and what Goods and Chartels, or Things in Action which come to the Husband by Intermarriage, or accrue during Coverture, shall the Executor have after the Death of the Husband, or not. B. 10. 41, 51. See Tit. *Baron and Feme*.

Where the Executor of a Body corporate shall have the Chartels, or &c. and not the Successors. B. 4. 65. See Tit. *Abbot and Prior*.

Where the Executors shall have the Emblements of Lands after the Death of the Husband, and not the Wife, or contrary. B. 5. 2 p. 116. See Tit. *Emblements*.

Where the Executor shall have the Ward fallen upon the Death of the Tenant, and not the Heir, and contrary. B. 2. 93. See Tit. *Ward*, and *Statute, W.* 2. c. 35.

Where the Executor needs the Testament of the Testator, and must have it to shew in Action by, or against him, and what is a sufficient Testament. B. 9. 38, 41. See Tit. *Monstrance of Deeds*, and *Testament*.

What shall be a good Bar in Debt, or other Action brought by an Executor, or Administrator, where, and what not. B. 5. 2 p. 27. b. 8. 132. b. 9. 108, 109, 110.

Where an Action or Duty shall be extinguished, or put in Suspence by Administration as Executor. B. 8. 136. See Tit. *Extinguishment*.

Where the Act of one Executor, as Confession, Non-Suit, Default, or Release shall prejudice and bar the rest, or not. B. 8. 61. b. 9. 37. See Tit. *Severance*.

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What Issue shall be taken in Debt by or against Executors. B. 6. 41.

Where *Scire facias* lies against Executors to have Execution of a Thing come to them of late Time by one barred in an Action heretofore, brought by him against them. B. 8. 134.

Where the Release of an Infant-Executor is good, or not. B. 5. 2 p. 27. See Tit. *Acquittance*, and *Infant*.

Where an Executor's Release of a Debt before Probate of the Testament is not good. B. 5. 2 p. 28. twice. See Tit. *Releases*, and *Testament*.

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Where the Executor may satisfy himself by Retaining, or not. B. 5. 2 p. 30, 33, 34. b. 9. 34. See Tit. *Affets*.

Where Release, or Acquittance of a Debt by a Woman Covert Executrix is not good. See Tit. *Acquittance*, and *Releases*.

Where a Release, or Acquittance of a Monk Executor is good. See Tit. *Acquittance*, and *Releases*.

Where Executors shall have Election upon Grants, or &c. as well as the Party upon Grants in the Disjunctive, or not. See Tit. *Election*.

Where a Writ shall be brought by, or against a Man as Executor, where as Administrator. See Tit. *Administrator*.

Where and what shall be accounted Affets in the Executor's Hand, what not. See Tit. *Affets*.

Where a Woman Covert Executor shall be prejudiced by her Husband. See Tit. *Baron* and *Feme*.

Where a Writ shall be maintained by, or against Executors by Journies Accounts, or not. See Tit. *Journies Accounts*.

What shall be a good Verdict in Debt by, or against Executors. See Tit. *Verdict*.

What shall be good Evidence in Debt against Executors upon fully administered, &c. or never Executor. See Tit. *Evidence*.

Where Summons and Severance lies in Debt brought by Executors. See Tit. *Severance*.

Upon Devise to Executors, or that the Executors shall sell the Land, what Sale, or &c. by them, or any of them shall be good, what not. See Tit. *Devise*.

Where the Devisee cannot take the Thing devised to him, or enter the Land, without Assent of the Executor, and what is good and sufficient Assent, or not. B. 3. 39. b. 4. 28, 66. b. 5. 2 p. 12, 29. b. 8. 95, 96. b. 10. 47, 49. See Tit. *Devise*.

Where a Writ of Debt lies against the Ordinary, or his Executors, or not. See Tit. *Ordinary*.

Where the Ordinary may sequester the Goods of the Dead, and how he shall demean himself in it, and where he may sequester, tho' the Testator has made Executors. See Tit. *Ordinary*.

Where an Executor shall account to the Ordinary, and of what Things; where and of what not. See Tit. *Ordinary*.

How a Condition upon a Feoffment, or &c. to pay Monies by him, his Heirs, or Executors, or to him, his Heirs, or Executors, shall be performed; and to, and by whom. See Tit. *Conditions*.

Where one Executor may have an Action against his Companion, or not. See Tit. *Extinguishment*.

*Exemplification.*

Where and under what Seals of Courts Exemplifications shall be sufficient to be pleaded, or estop a Man; under what not. B. 2. 5, 7. b. 3. Epist. 1. there. b. 3. 2 p. 53, 54. b. 8. 8, 28. See Tit. *Monstrance of Deeds*, and *Record*.

Where and who shall have Exemplification, or *Constat* of the King's Letters Patents, and to whom they shall be as available as the Letters Patents themselves, to whom not. B. 5. 2 p. 52. b. 8. 8. See Tit. *Statutes*,

*Exemption. Exigent.*

§ E. 6. c. 4. and *Inrollment*, and *Monstrance of Deeds*.

Where and what Person shall have Exemplification of a Deed inrolled, and to what Purpose it shall be available, as if he had the Deed it self, or not. B. 5. 2 p. 52, 53, 74. See Tit. *Inrollment*, and *Statutes*, 6R. 2. c. 4. there.

Where a Man shall have Exemplification of Statutes, or A&S of Parliament. B. 2. Epist. 1. there. b. 8. 7, 8, 38.

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Difference betwixt Exemplification and *Constat*, and in what Points. B. 5. 2 p. 52, 53, 54.

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How a Man shall be discharged to be sworn upon an Inquest by the King's Letters Patents. B. 8, 108.

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Exemption to be a Juror shall be sufficient, under what not. B. 6. 53.

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In what Actions a *Capias* and *Exigent* lie at the Common Law, in what not. B. 3. 12. b. 5. 1 p. 88, 92.

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Where *Capias* and *Exigent* lie in Ravishment of Ward. B. 9. 72. See Tit. *Ward*, and *Statutes*, *West.* 2. c. 35.

Where *Capias* and *Exigent* lie in a Writ of Trespass. B. 3. 12. b. 5. 2 p. 88. b. 10. 72. See Tit. *Process*.

Where *Capias* and *Exigent* shall be awarded against a Baron, or Baroness, Earl, or Countess, or Lord of the Parliament, or not. B. 6. 53, 54. b. 7. 15, 33, 34. b. 9. 49, 68. b. 10. 76. See Tit. *Arrests*, and *Execution*, and *Parliament*.

Where *Capias* and *Exigent* lies against Executors, or not. B. 6. 80. b. 9. 109. See Tit. *Executors*.

Where *Exigent* shall be awarded after the first *Capias*, or not. B. 5. 2 p. 32, 88, 89. b. 8. 142. See Tit. *Charter*, and *Execution*.

Where *Capias*, or *Exigent* shall be awarded in another County than that where the Original was brought, or not. B. 5. 59.

What Return of the Sheriff shall be good upon *Exigent*, what not. See Tit. *Return of the Sheriff*.

Where Forfeiture of Goods is by Award of the *Exigent*, or not. B. 5. 2 p. 110, 111. See Tit. *Forfeiture*.

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Where *Esigent* shall be awarded against the Accessary before all, or any of the Principals be attained. See Tit. *Crown*.

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Of the Words *In, Apud, De vel Ex*, (in, at, of, or from) in Writs, or Grants. B. 7. 41, 42. See Tit. *Charge*, and *Trial*.

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Of the Word *Fuxta*, and how it shall have Relation. B. 6. 73. b. 10. 132. See Tit. *Relation*.

Of the Words *Idem, Eadem, Ejustdem, or Eundem*, and how they shall have Relation. B. 8. 32. b. 10. 124. See Tit. *Relations*.

Of the Word (*Predicti*) and how it shall have Relation where Two Things are mentioned before. B. 1. 153. b. 8. 59, 74, 75, 91. b. 9. 47, 48. b. 10. 64, 67, 69, 106, 129, 138. b. 11. 50, 51.

Of the Words *que vel quas* in Deeds, and how they shall have Relation. B. 8. 148, 154, 155. See Tit. *Relation*.

Of the Word late, or *nuper* in Latin. B. 2. 47.

Of the Words (*semine, sanguine, exitu, prole, liberis*). B. 1. 103. b. 3. 40, 61. See Tit. *Tail*, and *Estates*, and *Statutes*, W. 2. c. 1.

Of the Words *homo*, or *homines*, Statutes, or Charters. B. 6. 52. See Tit. *Relations*.

Of the Words *uterque, utrumque, quilibet, or quemlibet*. B. 5. 2 p. 103. See Tit. *Obligation*.

Of the Words *bona*, and *catalla*. B. 8. 33. See Tit. *Gift*.

Of Words copulative (*conjunctive*, and *conjunctim*) and how they shall be expounded. B. 3. 39. b. 4. 41, 50, 79, 80. b. 7. 7, 8, 9. b. 8. 85. b. 10. 110, 112. See Tit. *Relation*.

Of Words disjunctive (*vel*) or *&c.* B. 5. 2 p. 22, 40, 112. b. 6. 39. b. 10. 81, 114, 127, 129. See Tit. *Annuity*, *Demand*, *Plaint*, and *Election*.

Of the Word (*alibi*) B. 10. 65.

Of the Words (Scot and Lot). B. 7. 17.

Of the Words (void, irrite, and held for null) in Statutes, *&c.* and how they shall be construed and expounded. B. 1. 24. b. 3. 59, 60, 82, 83, 88, 89. b. 5. 2 p. 3, 5. 119. b. 10. 60, 100. b. 11. 67, 73.

Of the Words (Lands and Tenements). B. 4. 87. b. 7. 33, 34. b. 10. 107. b. 11. 50. See Tit. *Grants*.

Of the Words *durante termino*. B. 1. 155. b. 8. 145.

Of *averia vel animalia*, Beasts, or Cattle. B. 1. 87. b. 8. 138.

Of the Word (*quandocunque*). B. 1. 87. See Tit. *Relation*.

Of the Words (*adeo plene & integre, vel tam amplis modo & forma*). B. 10. 65.

Of the Word (reasonable) in Deeds, and how to be construed. B. 1. 176, 177. See Tit. *Relation*.

Of the Words (of certain Knowledge, meer Motion, and special Grace). B. 1. 43, 44, 45, 46, 48, 49, 50 to 53. b. 2. 32, 50, 54. b. 3. 73. b. 4. 35, 75. b. 6. 55. b. 8. 45. b. 9. 100, 101. b. 10. 63, 64, 109, 112, 113, 114. b. 11. 11. See Tit. *Grant of the King*.

Of the Words (*ipso facto*) in Deeds, or Statutes, or *&c.* B. 5. 9. 119.

Of the Word (College) and what is a College, what not. B. 4. 106, 108. See Tit. *Statutes*, 31 H. 8. c. 13. 1 E. 6. c. 14.

Of the Word (Hereditament) and what Thing is comprised and included in it, what not. B. 3. 2, 4, 8. b. 7. 35, 34.

Of the Word (*proxima advocatio*). B. 7. 28. b. 8. 144, 145. b. 10. 53, 54.

Of the Word (demised.) B. 4. 80. See Tit. *Covenant*.

Of the Words (*absque imperit. vasti*) B. 2. 23. b. 4. 60. b. 9. 9. b. 11. 83. See Tit. *Waste*. b. 6. 34. b. 8. 76.

Of Words of Number, and where the singular Number includes the Plural, and contrary, and where the Number is material. B. 8. 48. b. 10. 100, 101, 103, 106, 107. See Tit. *Writ*. b. 5. 2 p. 35.

Of the Word (depending) in Acts of Parliament, or *&c.* and how to be construed. B. 5. 2 p. 47, 48 twice. b. 7. 30.

Of the Word *innuendo* in a Count, or *&c.* B. 4. 13, 17, 20. See Tit. *Action on the Case.*

Of the Words (*tempus semestre*) in Statutes, or *&c.* B. 6. 50, 62. See Tit. *Statutes, West.* 2. c. 5.

Of the Words *qualis, talis, or talia, qualis,* and how they shall have Relation. B. 4. 18. b. 6. 33. b. 10. 104. b. 11. 33. See Tit. *Relation.*

Of the Words (*se defendendo.*) B. 9. 68.

Of the Words (*terra dominicales*) B. 1. 46. b. 4. 21. b. 5. 2 p. 6.

Of the Words (at any Time.) B. 1. 173, 174. See Tit. *Revocation.*

Of the Words (during Life, or Lives) in Deeds, and how they shall be construed. B. 2. 48, 50. b. 3. 37. b. 4. 73. b. 5. 2 p. 9, 13. b. 11. 3, 4, 46, 80.

Of the Words (equally divided.) B. 3. 39. See Tit. *Devise.*

Of the Words (*proximus de sanguine.*) B. 3. 39, 40, 61. See Tit. *Statutes,* 6 R. 2. c. 2.

Of the Word (*Portion*) in English, or (*portio*) in Latin. B. 4. 35.

Of the Word (*Pension*) in Deeds, or *&c.* B. 5. 2 p. 40, 41.

Of the Words (Hand-gun.) B. 5. 2 p. 72. See Tit. *Statutes,* 33 H. 8. c. 6.

Of the Word (only.) B. 4. 50, 71. See Tit. *Statutes.* 1 R. 3. c. 1. 27 H. 8. c. 16. 32 H. 8. c. 37.

Of the Words *usque, or quousque.* B. 3. 19, 20. b. 4. 82. b. 5. 2 p. 94. b. 10. 41.

Of the Words *Flotsam, Jetsam, and Ligan.* B. 5. 2 p. 106.

Of the Word (convict in Statutes.) B. 10. 52. b. 11. 58 to 61.

Of the Words (Eighty Years) and the Term of Eighty Years. B. 1. 153, 154.

Of the Words (within Ten Years, and within the Term of Ten Years) and what Diversity, and how to be construed. B. 1. 153, 154. b. 8. 144, 145. See Tit. *Relation.*

Of the Words (after the End and Expiration of the Term of 24 Years, and after the End of 24 Years, *&c.*) and what Diversity, and how to be construed. B. 1. 153, 154.

Of the Words (*cum quolibet eorum*) in Deeds, and how they shall be construed. B. 5. 2 p. 19. See Tit. *Obligation.*

Of the Word (other) in Statutes, or *&c.* and how to be construed. B. 1. 177. b. 2. 46.

Of the Words (to be held of us, *&c.* and of other chief Lords by the Services therefore due, and of Right accustomed) in the King's Grant, how to be construed. B. 6. 6. See Tit. *Grant of the King, and Tenure.*

Of the Words (any Thing in the Act of Parliament notwithstanding.) B. 7. 19, 20.

Of the Word (irrevocable) in Deeds. B. 8. 82. See Tit. *Revocation.*

Of the Words (when, and then.) B. 3. 20, 21. See Tit. *Devise.*

Of the Word (paying) where it is taken for a Condition, where not. B. 3. 21. See Tit. *Condition.*

Of the Words (presently, or immediately in Statutes) or *&c.* and how to be construed. B. 3. 28, 35, 34. b. 7. 95. b. 8. 119, 120. See Tit. *Relation.*

Of a Grant to Two, and their Heirs. B. 1. 85. See Tit. *Deeds and Grants, Estates and Fines.*

Of the Word (having) or *&c.* in a Statute. B. 1. 80 to 84. b. 5. 31.

Of the Words (or otherwise) in Statutes. B. 4. 3. b. 6. 76.

Of the Words (that, those) in Deeds, or *&c.* B. 4. 34, 35.

Of the Words (the Fine in Law is null) in Statutes, or *&c.* B. 3. 88, 89.

Of the Words (*earum partium heredes.*) B. 3. 89.

Of the Words (during Minority.) B. 5. 2 p. 9. 29 twice. B. 6. 63, 67. b. 8. 135. See Tit. *Administration.*

Of the Words (appurtenant in Grants.) B. 4. 38. See Tit. *Appendant.*

Of the Words (from him, or them) in Statutes, or *&c.* B. 4. 50. b. 5. 2 p. 118.

Of the Words (then, and there) in Deeds, and Statutes, or *&c.* B. 4. 42. b. 7. 12, 15.

Of the Words (to receive and retain) in Statutes, or *&c.* B. 4. 79, 80.

Of the Word (*dedi*) in Grants, or *&c.* B. 1. 2. b. 4. 81. b. 5. 2 p. 17, 18. See Tit. *Warranty*.

Of the Word (*pro*) in Deeds, *&c.* B. 4. 88.

Of the Words (*fatuus* or *idiota*) in Statutes, *&c.* B. 4. 127, 128. See Tit. *Ideol.*

Of the Words (*à confessione presentium*) in Deeds. B. 5. 2 p. 1, 2, 93, 94. See Tit. *Computation*, and *Leases*.

Of the Words (from the Date, or the Day of the Date) in Deeds, or *&c.* B. 5. 2 p. 1. See Tit. *Leases*.

Of the Words (from henceforth.) B. 5. 2 p. 1.

Of the Word (*idoneus*.) B. 8. 41, 42.

Of the Words (*verus & antiquus redditus*) in Statutes, or *&c.* B. 5. 2 p. 4, 5.

Of the Words (*pisces*, and *pisces*) in a Writ, or *&c.* B. 5. 2 p. 35.

Of the Word (*videlicet*) in Deeds, or *&c.* B. 5. 2 p. 55, 112.

Of the Words (*hospitium*, and *hospitator*.) B. 8. 32. See Tit. *Action of the Case*.

The Words (*ad presens*) and where the Present Tense, Preter, or Preterperfect Tense, one shall be taken for the other. B. 2. 46. b. 10. 67.

Where Two having several Estates join in Assurance to a Stranger, how it shall be construed. B. 1. 76, 147. b. 2. 35, 57, 58. b. 5. 2 p. 7, 8. b. 6. 14, 15. See Tit. *Confirmation*.

Where an Act done at one Instant shall enure to several Intents, and where done at several Times, shall enure as done at one Instant, and how the Time shall be accounted to supply it. B. 1. 76, 174. b. 3. 26, 27. b. 5. 2 p. 7, 8, 15, 19, 79. b. 6. 14, 15, 33, 34. b. 7. 74, 75. See Tit. *Rents*.

Of a Feoffment made by Tenant for Life to him in Remainder in Tail. B. 1. 76, 77. b. 6. 14, 15. See Tit. *Surrender*.

Of a Feoffment made by Tenant

for Life, and him in Remainder in Tail. B. 1. 76, 77. See Tit. *Discent*.

Of a Grant of Tenant for Life of his Estate to him in Reversion, and another. B. 2. 61. See Tit. *Surrender*.

Of a Grant, Lease, or *&c.* made to a Tenant for Life, or Years, how it shall enure. B. 2. 23, 24. See Tit. *Confirmation*, *Join-Tenants*, and *Surrender*.

Of a Lease for Life of Lands in several Counties, reserving Rent, and how, *&c.* B. 2. 75. b. 5. 2 p. 79. See Tit. *Rents*.

Of a Grant of so many Loads of Wood to be taken by Assignment of the Grantor. B. 5. 2 p. 25. See Tit. *Grants*.

Of the Words (*à festo*, or *ad festum* of St. Michael.) B. 11. 39. See Tit. *Intendment*.

Of the Word Barrctor. See Tit. *Barrator*.

From, or to what Time an Act to be done upon Condition, shall have Relation. See Tit. *Relation*, and *Condition*.

Of the Time to which a Deed shall have Relation in Date, Delivery, or *&c.*

Of Forfeiture, or Exception in Writs, Leases, or *&c.* See Tit. *Exception*, and *Writ*.

Of the Charter of the King to pardon and discharge all Debts, and who are discharged by it, who not. See Tit. *Charter*.

Of Conditions. See Tit. *Conditions*.

Of Covenants. See Tit. *Covenants*.

Of Devises. See Tit. *Devises*.

Of Intails. See Tit. *Tails*.

Of Grants, Gifts, Exceptions, and the Rest, *&c.* and of Woods, or Trees. See Tit. *Woods*, and *Exception*.

Of Testaments. See Tit. *Testaments*.

Of the Word (Proof) in Deeds, and what Proof shall be intended. See Tit. *Intendment*, and *Conditions*.

Of Leases. See Tit. *Leases*.

Of Releases. See Tit. *Releases*.

Of Grants of common Persons. See Tit. *Grants*, and *Deeds*.

Of the Charters and Grants of the King. See Tit. *Charters*, and *Grants of the Kings*.

*Ex post facto.*

Of Feoffments of Lands. See Tit. *Feoffments.*

Of Reservations. See Tit. *Reservations*, and *Exceptions.*

Of Statutes, and Acts of Parliament. See Tit. *Statutes.*

Of Remainders, and Reversions. See Tit. *Remainder.*

Of Confirmations. See Tit. *Confirmation.*

Of Limitations. See Tit. *Limitation.*

Of Words relative. See Tit. *Relation.*

Of Deeds, and the *Habendum*, &c. in them. See Tit. *Deeds.*

Of Obligations, and Words in them. See Tit. *Obligation.*

Of Surrenders. See Tit. *Surrenders.*

Of Warranty. See Tit. *Warranties.*

Of Words in Inditements. See Tit. *Inditements.*

Of Assurances of Lands, or Uses. See Tit. *Assurances*, and *Entendments*, and *Uses.*

Of Words and Sentences which concern Men, or Women. See Tit. *Capacity.*

Of the Words (for Service, or Counsel given, or to be given.) See Tit. *Annuity.*

Of Tenures. See Tit. *Tenures.*

Of the Words (Moiety of an Advowson of a Church, or Advowson of a Moiety of a Church.) See Tit. *Advowson.*

Of the Words (upon Return of Sheriffs.) See Tit. *Return of Sheriffs.*

Of a Grant by him that has two Estates in him at the Time of the Grant. See Tit. *Grants.*

Of Words in Pleading, and which import full and sufficient Allegation in Fact, which not. See Tit. *Pleadings.*

Of Gifts, Grants, or Deeds by themselves to Men, or Women. See Tit. *Consuance*, *Fines*, *Dower*, *Assets*, *Remainder.*

*Ex post facto.*

Where a Man shall be a Trespasser from the Beginning by Matter of After-Fact, or not. B. 8. 146. b. 9. 11, 22, 23, 76. See Tit. *Action of the Case*, *Justification*, and *Trespas.*

Where he that does a Thing by Command, or Authority given him by another, shall be a Trespasser by Matter of After-fact done by him who commanded him, or not. B. 6. 18. See Tit. *Command.*

Where Action of the Case lies against him, who has Goods, or Chattels bailed to him by Matter of After-fact, or not. See Tit. *Action of the Case.*

Where a Man shall be punish'd by Action of false Imprisonment by Matter of After-fact, or not. See Tit. *False Imprisonment.*

Where Agreement, or Disagreement after shall have Relation from the Beginning to an Act done before. See Tit. *Agreement*, and *Relation.*

Where a Grant, Lease, Gift, or &c. incertain in the Disjunctive is good, and shall be certain by Matter of After-fact. See Tit. *Gift*, *Annuity*, *Demand*, *Election*, *Exposition*, and *Plaint.*

Where a Condition broken, and Entry for it shall make an Estate void from the Beginning, and to what Intents, and to what not.

Where Waste once punishable shall become dispensible by Matter of After-fact.

Where Extent is after Extent, and new Extent after the first avoided, or determined by Matter of After-fact, or not. See Tit. *Extent.*

Where Waste once dispensible shall become punishable by Matter of After-fact. See Tit. *Waste.*

Where Entry once taken away shall be lawful by Matter of After-fact. See Tit. *Entry congeable.*

Where a Franchise, or Custom is extinguished by Matter happening of late Time, or not. See Tit. *Extinguishment*, and *Corporation.*

Where the King's Charter shall become void by Matter of After-fact, and the Party lose the Benefit by it. See Tit. *Charter.*

Where Damages to be recovered in an Action shall be recouped by Matter of After-fact. See Tit. *Recover.*

Where a Release extinguishing Right bars an Action fallen of late Time

Time since the Release, or not. See Tit. *Releases*.

Where Failing of a Record is because it was reversed of late Time. See Tit. *Failing of a Record*.

Where an Act of Parliament shall be repealed by another Act of late Time, and where, and what is a Repeal, what not. See Tit. *Parliament*.

Where *Scire facias* lies by him who was once barred in an Action to have Execution of Affets fallen after. See Tit. *Executors*.

Where *Scire facias* lies against an Heir, to have in Value Lands descended to him of late Time. See Tit. *Scire facias*.

How Execution shall be awarded upon a Statute-Merchant, or Recognizance, where the Lands were in Execution before upon a late Statute, or Recovery of late Time. See Tit. *Recognizances*, and *Scire facias*.

Where a Lease upon Contingency is good upon Matter of After-fact. See Tit. *Leases*.

#### Extent.

By *Elegit* upon a Statute-Merchant, or *Sec.* and how it shall be done by the Sheriff, and how he shall demean himself upon it, and what Return is good, what not. B. 4. 65, 66, 67, 74. b. 5. 2 p. 90. b. 8. 171. See Tit. *Execution*, and *Recognizance*.

Where a Man shall have Re-extent after another upon the first avoided, or determined by Matter of After-fact, or not. B. 4. 66, 67. b. 5. 2 p. 87. See Tit. *Recognizance*, and *Statutes*, 32 H. 8. c. 5.

How the Recognisor shall have his Land delivered in Execution after the Debt satisfied, and where he cannot enter, but must have Process against the Recognisor, and what. B. 4. 66, 67, 82. See Tit. *Entry congeable*, and *Recognizance*.

Where the Recognisee, after the Extent satisfied, shall retain the Land until he be satisfied of his Costs and Damages. B. 4. 67, 82. See Tit. *Entry congeable*, and *Recognizance*.

#### Extinguishment.

Where Rent, Service, or *Sec.* is extinguish'd by Purchase of the Land, out of which, *Sec.* or Parcel of it, or not. B. 6. 1, 2. b. 8. 105, 106. b. 9. 135. See Tit. *Apportionment*.

Where the Seignior, or Service is extinguish'd by Purchase of the Land, or Parcel of it. B. 6. 1, 2. b. 8. 105, 106. See Tit. *Apportionment*.

Where Unity of Possession of the whole Land, or Parcel of it, by Wrong or Disseisin extinguishes the Rent, Seignior, or *Sec.* or not. B. 4. 52. b. 6. 39. b. 8. 1, 2. See Tit. *Apportionment*, and *Suffesce*. b. 9. 135. b. 10. 67.

Where Unity of Possession by Course of Law, as Discant, or *Sec.* of Land or Parcel of it extinguishes the whole Rent, or *Sec.* or not. B. 4. 49. b. 9. 135. See Tit. *Apportionment*.

Where Unity of Possession of the Land, and Rent, and Feoffment over of the Land, extinguishes the Rent, or *Sec.* B. 2. 28, 31, 47, 68, 73. b. 3. 30, 31, 65. b. 4. 38, 49. b. 5. 2 p. 113. b. 6. 39, 69, 70. b. 7. 24. See Tit. *Count*, and *Voucher*.

Where the Mesnalty shall be extinguished by Act of the Tenant paravail, or Lord paramount, or not. B. 3. 66. b. 4. 9. b. 9. 129, 130, 131, 134.

Where the Seignior shall be extinguished by the Act of a Stranger, or Act of the King, because of his Possession, or Seisin, or not. B. 1. 47. b. 2. 15. b. 6. 5, 6. b. 7. 25. b. 8. 118. See Tit. *King*.

Where a Common is extinguished by Purchase of the Land, out of which, *Sec.* or Parcel of it, or by Alienation of the Land, or Parcel of it, or not; but suspended. B. 4. 38. b. 5. 2 p. 101. b. 7. 9, 135. b. 8. 13, 79.

Where Suit of Court is extinguished by Unity of Possession of the Land, or of Parcel of it. B. 6. 2.

Where the whole Seignior is extinguished by the Lord's Release of Parcel, *Sec.* B. 6. 1.

Where

*Extinguishment.*

Where Rent, Common, or *&c.* is not extinguished, but suspended, tho' one Man has an equal Estate in both. B. 2. 47. b. 4. 52, 53. b. 9. 134.

Where Rent, or *&c.* may be granted to the Tenant of the Land, out of which, *&c.* or not. B. 2. 61. b. 9. 35, 123, 134.

Of the Seigniori of a common Person by an Estate in Remainder, conveyed to the King. B. 2. 15. See above, and Tit. *King*.

Of Rent reserved upon a Lease for Years, or *&c.* by Feoffment of him in Reversion. B. 2. 28, 31, 68. b. 5. 2 p. 113. See Tit. *Remainder*, and *Debt*.

Of Tithes by Unity of Possession of the Lands out of which, *&c.* and where, and where not. B. 1. 111. b. 2. 27, 48, 49. b. 11. 10, 14, 15. See Tit. *Tithes*.

Where Customs, or Liberties and Immunities by Prescription shall be extinguished by Matter, or Accidents happened of late Time, or not. B. 4. 87, 88. b. 6. 45. b. 9. 23, 140. b. 10. 50. See Tit. *Antient Demean, Corporation*, and *Copyhold*.

Where Customs, Franchises, Liberties, or Immunities are extinguish'd by the King's Seisin, and what, and what not. B. 9. 25, 26, 133. b. 10. 64.

Where Copyhold, and the Custom of it is gone and extinguished, by what Acts and Means done by the Tenant, or Lord, or both together, or not. B. 2. 17. b. 4. 24 to 27, 31. b. 6. 37. b. 8. 64. b. 9. 104, 107. See Tit. *Copyhold*.

Where Prescription, or Custom is gone and extinguished by Change, or Alteration of the Thing, to which, *&c.* or not. B. 4. 87, 88. See Tit. *Corporation*, above, and *Custom*.

Where Rent, Use, or *&c.* shall continue after the Estate, out of which, *&c.* is determined, and where the Estate shall continue, and the Rent, or *&c.* shall be extinguished and determined, or not. B. 1. 49, 51, 76, 96, 134, 139, 147. b. 2. 57. b. 4. 21, 23, 24. b. 6. 60. b. 7. 23. b. 8.

34, 70, 145. See Tit. *Confirmation*, and *Grant*.

Where Action, or Duty is extinguished by the Obligee his making the Obligor Executor, or contrary, or not. B. 8. 156. See Tit. *Executor*, and *Release*.

Where Debt is gone and extinguished by Intermarriage betwixt the Obligor and Obligee. B. 8. 137. See Tit. *Baron and Feme*, and *Release*.

Where a Contract, or Debt upon Contract is gone, extinguished, and determined by Bond, Statute, or *&c.* taken for it, or by Recovery, or Bar in a former Action commenced upon it, or not. B. 4. 5, 43, 94. b. 5. 2 p. 33, 85. b. 6. 7, 8, 40, 45. b. 8. 72. See Tit. *Contract*, and *Acceptance*.

Of a Condition annexed to an Estate in Lands, and where, and by what Act, and by what not. B. 1. 97, 147, 148, 174. b. 2. 50, 52, 59, 70, 72 to 78. b. 4. 25, 53. b. 5. 2 p. 55. b. 7. 14. b. 8. 75. b. 9. 142.

Where and how a Manor may be extinguished and dissolved. See Tit. *Manor*.

Where a Leet, or Law-day shall be extinguished by Unity and Seisin of the King, or not. See Tit. *Leet*.

Where a Warren, Chase, or *&c.* are gone and extinct by Unity of Possession, Seisin of the King, or *&c.* or not. See Tit. *Forest*.

What Thing in Action, or Right to Lands or Goods is gone and extinguished by Outlary, and forfeited to the King, what not. See Tit. *Thing in Action*.

Where a Woman shall have Dower of Rent, or *&c.* of which the Estate is determined, and extinct. See Tit. *Dower*.

Where Arrearages of Rent reserved upon a Lease are lost by Entry for a Condition broken, or Acceptance of a Surrender, or not. See Tit. *Arrearages*.

Where Rent granted for Life, or by Tenant for Life is not extinguish'd by Death, but enlarged and continued by Confirmation. See Tit. *Confirmation*.



*Extinguishment. Extortion. Failing of the Record.*

Where Confirmation extinguishes a Condition, or not. See Tit. *Confirmation*.

Where a Release, or Confirmation, which go in Extinguishment of Right or Rent, may be upon Condition and Good. See Tit. *Condition*.

Where a Release of all his Right in Lands extinguishes Rents and Services, tho' he to whom &c. has nothing in the Land. See Tit. *Releases*.

Where Rent, Warranty, or Action are lost and extinct by entring generally into Warranty without saving the Right, Action, or &c. See Tit. *Voucher*, and *Protestation*.

Where Entry, Right, Action, or &c. are gone by Attornment generally without Protestation to save Advantages. See Tit. *Attornment*, and *Protestation*.

Where a Man by his Negligence shall lose the Benefit of Warranty and it shall be extinguished, and lost for ever. See Tit. *Warranty*.

Where Action of Waste shall be extinguish'd and gone for ever, and by what Acts and Means. See Tit. *Waste*.

Where Arrearages of Rent are extinguished and lost for ever, by accepting Notice of a new Tenant, without accepting the Arrearages. See Tit. *Avowry*, *Notice*, and *Tender*.

Where an Estate in Lands, or &c. is extinct by taking another Estate, and where Two Estates may stand together in one Person, at one Time, where contrary. See Tit. *Estates*.

Where and by what Acts and Means acquitted betwixt the Mesne, and the Tenant shall be extinguished. See Tit. *Mesne*.

Where a Commission ceases by granting another of the Authority to the same Person, or to another. See Tit. *Commission*.

Where Warranty is extinguished and lost by retaking as high and large an Estate in the Land, &c. See Tit. *Counterplea of Warranty*, and *Voucher*.

Where and by what Acts and Means a Corporation is extinguished and dissolved, by what not. See Tit. *Corporation*.

Where a future Right descendable is extinguished by a Man's Feoffment. See Tit. *Entry congeable*, and *Right*.

Where Extinguishment of Rents, Services, or &c. in Possession of a Body corporate is mortmain. See Tit. *Mortmain*.

Where a Woman's Name of Dignity is lost and extinguished by Inter-marriage, or not. See Tit. *Name*.

Where and by what Act Power to revoke Uses, or &c. is extinguished, by what not. See Tit. *Revocation*.

Where a Covenant or Warranty in Deed extinguishes a Covenant, or Warranty in Law. See Tit. *Warranty*.

Where Authority given to Executors to sell the Testator's Lands is extinguished; and by what Acts, where, and by what not. See Tit. *Authority*, and *Devise*.

Where a future Right is not extinguished by a Release, and where Right, Rent, Action, or &c. are extinct by Release. See Tit. *Releases*.

Where Rent extinct is Assets to the Heir. See Tit. *Assets*.

Where Rent is extinguished by levying a Fine of the Land. See Tit. *Rents*.

*Extortion.*

The Description of Extortion. B. 10. 101.

What is Extortion in the Sheriff. B. 10. 101.

What is Extortion in the Gaoler. B. 10. 101.

F.

*Failing of the Record.*

WHERE it is for Variance in the Name of the Thing, or &c. B. 5. 2 p. 46.

Where Failing of his Record is because it was reversed of late Time, or not. B. 8. 142, 143. See Tit. *Records*.

Fair, or Market.

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*Falsifying of Recoveries.*

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*Falty. Fees to Officers. Fee-simple, Feoffments.*

Where the Succeeder of a Parson, Vicar, or such like shall falsify a Recovery had against their Predecessors by Default, Render, or Action tried, or not. B. 5. 2 p. 14. b. 6. 8.

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*Fees to Officers.*

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*Feoffments.*

Of a Messuage with the Appurtenances, what Thing passes, what not. B. 2. 32. See Tit. *Appendant.*

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Where Feoffment of Acres by Name of a Manor, or contrary is good, and by Feoffment of one Thing by Name, another Thing of another Nature and Name passes, or not. B. 4. 62, 63, 87, 122. See Tit. *Deeds.*

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Where Fooffments of Lands are void, because upon Collusion to defraud Creditors, *&c.* and against what Persons, and what not. See Tit. *Collusion*.

Where a Fooffment shall be intended to be Fee-simple, where but Frank-tenement. See Tit. *Estates*.

Fooffment by him to whose Use, which good, which not. See Tit. *Ufes*, and *Statutes*, 1 R. 3. c. 1. 27 H. 8. c. 10.

Where a Fooffment may be pleaded by a Name comprised in the Deed, tho' it be otherwise named in Truth, *&c.* or not. See Tit. *Deeds*, and *Misnaming*.

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Where Fooffment by Tenant for Life to him in Reversion, or Remainder shall enure as a Surrender. See Tit. *Surrender*.

Where Fooffment by Tenant for Life forfeits his Estate. See Tit. *Forfeiture*.

How Fooffment by Tenant for Life to him in Reversion, and a Stranger shall enure and be construed. See Tit. *Exposition*, and *Surrender*.

Where upon Fooffment by him in Reversion, and Re-entry of the oured Lessee, the Reversion shall be to the Feoffee. See Tit. *Attornment*, and *Remainder*.

Of Fooffments upon Conditions, *&c.* See Tit. *Conditions*.

*Fooffments to Ufes.* See Tit. *Ufes*.

*Fieri facias.* See Tit. *Execution*.

*Fine to the King.*

How reasonable it ought to be, *&c.* B. 11. 44.

What shall be properly said a Fine, what an Amercement, how, and in what Court, and by whom the one and the other may be assessed and imposed, by whom not. B. 8. 38 to 42, 59, 60, 120. b. 11. 43, 44 See Tit. *Amercement*.

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Where a Fine of the King, and Imprisonment shall be of him who binds another, not to exercise his Art. See Tit. *Condition*.

Where Fine shall be made to the King in Forcible Entry. See Tit. *A Writ of forcible Entry*.

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Where Fine shall be made to the King in *Quo warranto*. B. 9. 28, 29.

Where Fine shall be made to the King for Hunting in Forests, or *&c.* See Tit. *Forests*.

Where Fine shall be made to the King for Ejectment. See Tit. *Ejectment firma*.

Where the King's Tenant's Wife shall fine to the King for marrying without his Licence. B. 4. 55.

Where Fine shall be made to the King by Jurors, and for what Misdemeanors. B. 8. 41. b. 11. 43. See Tit. *Amercement, Enquest, and Pain*.

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Where Suitors in base Courts shall fine to the King, for not removing the Record, or *&c.* See Tit. *Falsè Judgment*.

Where Justices of Peace, or other Commissioners shall make Fine to the King for their Misdoing. See Tit. *Commissioners*.

Where a Man convict of Perjury shall make Fine to the King. See Tit. *Perjury*.

Where Fine shall be made to the King for Intrusion upon the King's Possession. See Tit. *Intrusion*.

Where Fines to the King shall be severally assessed upon every Default or Plaint. See Tit. *Amercement*.

Where *Capias* for the King's Fine shall be awarded, and the Consequence of it. See Tit. *Execution*.

Where a Fine shall be made to the King by him that breaks the Peace. See Tit. *Peace*.

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*Fines of Lands.*

Upon what Writ a Fine of Lands may be levied. B. 5. 2 p. 39.

Where a Fine levied of another Thing, not mentioned in the original Writ, upon which the Fine is levied, is good, or not. B. 1. 69, 76. b. 2. 72,

75, 76. b. 3. 89. b. 6. 33. b. 7. 38.

Where a Fine shall be levied with a Forfeiture, or not. B. 2. 74. See Tit. *Forfeiture*.

Where a Fine may be levied to the Party to the Original, and to a Stranger, and good. B. 2. 76, 77. b. 3. 5, 6. See Tit. *Remainder*.

Where a Fine levied shall be void, or voidable in Part, or against one, and good, and shall stand for the other Part, and the other Party. B. 1. 76, 87. b. 2. 77. b. 3. 91. b. 4. 121. See Tit. *Deeds*.

Where a Fine levied betwixt the Plaintiff and a Stranger to the Original, as the Voucher, Tenant by Rescote, or *&c.* is good, or not. B. 3. 29.

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Where a Fine shall be levied of a Rent, and in what Manner, and where granted with a Clause of Distress, and where without, and how the Distress shall be limited. B. 1. 76. b. 2. 77. b. 3. 29. b. 6. 33. b. 7. 38.

Where a Fine shall be levied with Condition, or not. B. 2. 6, 7. b. 5. 2 p. 38.

Where a Fine levied upon Acknowledgment of Right, as that, *&c.* or upon Render, or Release shall be accepted by the Husband and Wife, and bind them, and the Heirs of the Wife for ever. B. 1. 76. b. 2. 57, 74, 77. b. 9. 43. See Tit. *Examination*, and *Averment*.

Where a Fine levied is good if any of the Parties was Tenant of the Land at the Time of the levying it. B. 3. 29, 88.

Form of levying a Fine to two, or by two, or more; and where two shall not acknowledge without shewing in whom the Fee rests, and

where it shall not be levied to two and their Heirs, but must limit the Fee to one in certain. B. 2. 74. b. 3. 84. b. 5. 2 p. 38.

Where a Fine upon Cognizance of Right, or *&c.* to two shall change their Estate, or give a Frank-tenement to him that had nothing before, so of Husband and Wife, upon Cognizance made to them, or not. B. 2. 74. See Tit. *Confirmation*, and *Averments*.

Where a Fine may be levied of a Reversion, and where it must make Mention of the mean Estates. B. 6. 8. See Tit. *Quid juris clamat*.

Where a Fine may be levied to and by the King, and what Manner of Fine. B. 1. 27, 40. b. 7. 32. b. 9. 138. b. 11. 77.

Where a Fine may be levied for Years, and a Lease of Years made by it, and bind the Estate Tail, and how, *&c.* B. 1. 76, 174. b. 3. 51. b. 5. 2 p. 4, 5, 6, 20, 21. b. 6. 33, 35, 63. b. 7. 8. See Tit. *Lease*.

Where a Fine levied by Tenant in Tail, shall bar the Issue in Tail, or not. B. 1. 76, 87, 96. b. 3. 51, 60, 88, 89, 90, 91. b. 4. 121. b. 5. 2 p. 4. b. 7. 32. See Tit. *Averments*.

Where a Fine shall be levied of an Advowson. B. 8. 45. See Tit. *Advowson*.

How Warranty shall be in a Fine levied by two, or more, or by Husband and Wife. B. 1. 68, 69. b. 3. 14. See Tit. *Warranty*.

Where a Fine shall be avoided, and not bind him that has Right, because levied by Collusion betwixt the Parties. B. 3. 77, 78. b. 5. 2 p. 124. See Tit. *Collusion*.

When a Fine shall be ingrossed. B. 3. 86. b. 5. 2 p. 39. b. 6. 68.

The Form of Pleading to avoid a Fine (that the Parties to the Fine had nothing) and the Replication to it. B. 3. 88. See Tit. *Replication*, and *Falsifying of Recovery*.

The Order and Form of levying Fines, and pleading them. B. 1. 27, 56, 68, 168. b. 2. 6. b. 3. 86. b. 4. 69. b. 9. 104. See Tit. *Record*, and *Pleading*.

Where and when a Fine shall be

executed, and what Matter shall be Execution of it, what not. B. 1. 97. b. 2. 61. b. 3. 5. See Tit. *Scire facias*, and when it shall be twice executed, there.

Where Cognizance of a Fine before the same Judge who was Party to the Fine, is void. B. 8. 110.

Where and what Parties, Privies, or Strangers are barred and estopped by Fines levied, and of what Pleas and Averments. See Tit. *Averments*.

Where and how Strangers to Fines levied shall be barred by Non-claim within the Five Years, *&c.* and how the Five Years shall be accounted. See Tit. *Continual Claim*, and *Stat. 4 H. 7. c. 24*.

Where a Woman shall be barred to have Dower by a Fine levied by her and her Husband. See Tit. *Dower*.

Levied at the Common Law of Lands of ancient Demean, how to be redressed and reformed. See Tit. *Ancient Demean*, and *Disceit*.

Where upon a Fine levied of the Reversion, the Rent passes without Mention of it. See Tit. *Grant*, and *Attornment*.

Levied by an Infant, how, and when to be reversed and reformed. See Tit. *Error*.

Where the Record itself of the Fine shall not be removed, but the Transcription of it. See Tit. *Error*, and *Record*.

Where a Rent, Condition, or *&c.* shall be extinct by Fine levied of the Land, or not. See Tit. *Extinguishment*.

Where a Fine levied by an Idiot, or Man of unsound Memory is good, and shall bind him. See Tit. *Idiots*.

Of Uses upon Fines levied, and how they shall be declared, and what Declaration is good, what not. See Tit. *Uses*, *Entendment*, and *Averment*.

Exposition of Fines within Stat. *W. 2. c. 1*. (That the Fine in Law shall be null) levied by Tenant in Tail. See Tit. *Exposition*.

Where and when a Man may shew his Cognizance in *Scire facias*, to have Execution out of a Fine, as Cognizance. See Tit. *Cognizance*.

Where

*Fold and Foldage. Forcible Entry. Forests, Park, Chase, and Warren.*

Where a Fine levied by a Woman Covert without her Husband may be avoided by the Husband, otherwise it binds the Wife and her Heirs for ever. See Tit. *Baron and Feme*.

How a Condition upon an Obligation to levy a Fine, shall be performed. See Tit. *Condition*.

Where a Fine shall be reversed for Error, and what Matter is Error. See Tit. *Error*.

Where a Fine by Tenant in Tail of a Rent, or Reversion, or *&c.* is no Discontinuance.

How Remainders shall be limited upon Fines levied of Lands, and where a Man may reserve to himself a Less Estate than he had before. See Tit. *Remainder*.

*Fold and Foldage.*

Where Prescription to have Fold and Foldage of Strangers Cattel is good. B. 8. 125. See Tit. *Custom*, and *Prescription*.

*Forcible Entry.*

Count in Writ of Forcible Entry, and what is good, what not. B. 5. 2 p. 120.

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Where and what Damages shall be recoverable in Forcible Entry upon the Statute 5 R. 2. or H. 6. b. 11. 30.

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What shall be said Forcible, with Force, and what without, and the Party be fined to the King. B. 8. 59. b. 9. 72. b. 11. 43. See Tit. *Fine to the King*.

Where and what Person shall have Restitution upon the Statute 8 H. 6. for Entry with Force, or detaining with Force, and what Justices may award Restitution, what not. B. 9. 118. b. 11. 59, 65. See Tit. *Justices*.

What Inditement of Forcible En-

try upon the Statute 8 H. 6. is good, what not. B. 4. 48.

Where an Inditement of Forcible Entry is not good, supposing one Thing done at several Days. See Tit. *Inditement*.

*Forests, Park, Chase, and Warren.*

What shall be a good Title to a Park, Chase, or Warren, no Man may have them without the King's Licence. B. 11. 86, 87.

What Judgment shall be given upon the Statute of Malefactors in Parks. B. 9. 72, 74. See Tit. *Statutes, W. 1. c. 20*.

What Judgment shall be given in a Writ of Trespass of Misdoers in Parks, what not. B. 9. 74. See Tit. *Judgment, and Election*.

Bar and Justification in Trespass of entering into a Warren, and taking his Conies, *&c.* or into a Chase, Park, or *&c.* and what is good, what not. B. 9. 49.

Where a Park, or Warren shall not be extinguished, by Unity of Possession in the King. B. 9. 25. See Tit. *Extinguishment, and Franchises*.

How, and in what Manner Men residing within Forests, may use and occupy their Lands and Woods, and in what Manner not. B. 2. 80. b. 8. 137, 138.

Where Imprisonment shall be for Hunting in a Forest, Park, or Chase, and for what Time. B. 9. 72. See Tit. *Imprisonment, and Statutes, W. 1. c. 20*.

Justices of the Forests, and their Authority. B. 2. 80. b. 9. 50.

Where the Office of a Park-keeper is forfeitable by Misdoing, or Negligence, and by what Act, by what not. See Tit. *Forfeiture*.

Where a Forest, Warren, or Chase may be Parcel, or appendant to an Honour, or Manor, or *&c.* See Tit. *Appendant*.

How a Condition to keep a Park shall be performed, and what Act is a Breach of it. See Tit. *Condition*.

Where a Chase, Warren, Forest, or *&c.* will pass by Feoffment, Grant, Lease,



Forfeiture.

Lease, or &c. Of Land, or Thing to which, &c. they are appendant, or &c. See Tit. *Appendant*, and *Grant of the King*.

Where a Forest shall be seized into the King's Hands, and how replevied out of the King's Hands. See Tit. *Replevy*, and *Quo-Warranto*.

Justices in Eyre, their Authority. See Tit. *Justices*.

Where the Justices of Forests, or a Parker, Keeper, or Forester may make a Deputy. See Tit. *Deputy*.

Where and how a Man may have Property in the Conies of a Warren, or Beasts of a Park, Forest, or Chase. See Tit. *Occupant, Property*.

Where it may be justifiable for any Man to kill Deer, Conies, or &c. out of a Park, Forest, Warren, or &c. or not. See Tit. *Property*, and *Occupant*.

Where Assize lies of the Office of Parkerhip. See Tit. *Assize*.

Forfeiture.

Where Tenant for Life, or Years, or &c. shall forfeit their Estate by making a greater Estate, and by Alienation, or Dishenring of him in Reversion, and who shall enter Forfeiture, and who not. B. 1. 9. 15, 16, 46, 67, 74, 76, 107, 110, 135, 140. b. 2. 37, 55, 56, 68, 74, 51. b. 3. 4, 77, 78, 79, 84. b. 5. 2 p. 40, 80. b. 6. 14, 15. b. 9. 106. b. 10. 39, 44, 45, 98. b. 11. 80. See Tit. *Disseisin*, and *Entry Congeable*.

Where Recovery against Tenant for Term of Life is a Forfeiture of his Estate, and the Entry of him in Reversion lawful. B. 1. 16, 62. b. 3. 2, 60. b. 6. 8. b. 10. 39, 44, 45. See Tit. *Entry Congeable*, *Falsifying Recovery*, and *Statutes*, 32 H. 8. c. 31. 14 Eliz. c. 8.

Where and what is a Forfeiture of a Franchise, Liberty, or Office, by not using it, abusing it, or not. B. 7. 54. b. 8. 44. b. 9. 59, 95, 96, 99. b. 11. 86, 98.

Where and what Things are forfeited to the King by Outlary in an Action personal, what not. B. 3. 39,

82. b. 4. 93, 95. b. 5. 2 p. 49, 56, 90, 116. b. 6. 80. b. 7. 12, 13. See Tit. *Thing in Action*, *Emblements*, and *Exigent*.

Where and what Things shall be forfeited to the King by Attainder of Felony, or Treason, what not. B. 3. 35, 82. b. 5. 2 p. 56, 109, 116. b. 6. 40. b. 7. 13, 21, 33, 34. b. 8. 43, 171. See Tit. *Thing in Action*, and *Treason*.

By Consent to Ravishment, and who shall enter for the Forfeiture, who not. B. 1. 95, 98, 137. b. 5. 40, 41, 42, 61. See Tit. *Statutes*, 4 & 5 P. & M. c. 8. and *Discent*, and *Rape*.

Where Issues of Land are forfeited for Felony, and for what Time, and how, and by whom they shall be answered to the King. B. 8. 170.

Where the King shall have the Forfeiture of the Land for Felony, or &c. for the Year, Day, and Waste, and how, and from what Time the Year shall be accounted. B. 4. 124. See Tit. *Escheat*.

Of a Clerk convict, and what he shall forfeit. B. 11. 58. See Tit. *Clergy*.

Where the Lord of whom the Land is holden, shall have the Lands forfeited for Felony, or Treason, by Escheat, or not, but the King. B. 4. 124. b. 7. 20. b. 10. 112. See Tit. *Escheat*, and *Treason*.

Of Goods, as Deodand. B. 1. 50, b. 5. 2 p. 110. See Tit. *Deodand*.

Of a Woman's Jointure, by her, or her and her second Husband's Alienation, and who shall enter for such Forfeiture, who not. B. 1. 112, 176. b. 2. 76. b. 3. 51. See Tit. *Stat*, 11 H. 7. c. 10.

Of a Felon of himself, and what he forfeits. B. 1. 50. b. 5. 2 p. 110. See Tit. *Crown*. b. 4. 42.

By (Because he fled) and what, and when. B. 5. 2 p. 109, 110.

Of Copyhold, and what shall be, &c. See Tit. *Copyhold*.

Where Forfeiture of Goods upon Outlary is by Award of the Exigent. B. 5. 2 p. 111. b. 11. 41.

Where Forfeiture of Lands or Goods is without Attainder, or Process of Law. B. 4. 57.

Where

*Forging of Deeds. Formedon.*

Where Goods are not forfeited for Homicide, or Felony. B. 5. 2 p. 91, 110. See Tit. *Crown*. b. 4. 42.

Where Forfeiture is for Homicide in his own Defence, or not. B. 5. 2 p. 91. See Tit. *Crown*.

What Lands are forfeitable for Treason. See Tit. *Treason*.

Where Forfeiture of Goods is in Default of fresh Suit. See Tit. *Appeals*.

Of Goods waived, and which shall be said Goods waived. See Tit. *Waif*.

Of Pain, and what is forfeited by it. See Tit. *Pain*.

In *Premunire*, and what is forfeited in it. See Tit. *Premunire*.

By a Woman which marries without the King's Licence. See Tit. *Fine to the King*.

By cessing for Two Years, &c. See Tit. *Cessavit*.

For Alienation in Mortmain. See Tit. *Mortmain*.

Where the King is seized in Right of his Crown upon Forfeiture of, &c. See Tit. *King*.

By the King's Tenant for Alienation without Licence. See Tit. *Licence*.

Of a Thing in Action, and what Thing in Action shall be forfeited to the King, what not. See Tit. *Thing in Action*.

Forfeiture of Marriage to the Lord for the Heir who marries without Licence, and where the Lord shall have it, or not. See Tit. *Action upon Statutes, Tender, Refusal, Election, and Statute Merton*. c. 6, 7. and *Verdict*.

*Forging of Deeds.*

Form of the Writ, and where it shall be general, and the Count special. B. 5. 2 p. 61. See Tit. *Writ*.

What Matter is sufficient to abate the Writ. B. 5. 2 p. 61. b. 10. 103.

Form of the Count. B. 10. 103. See above.

Where Forgery of false Deeds lies and is maintainable for Forging, or Publishing a Deed indented of Bargain, or Sale, or of an Obligation. B. 4. 18.

Where the Writ of Forgery of false

Deeds abates, because Two Writs are Hanging, and where, and when contrary. See Tit. *Writ*.

Punished in the Court of Star-Chamber. See Tit. *Courts*.

The King may pardon the corporal Punishment. B. 5. 2 p. 50.

*Formedon.*

Formedon in Descender, Form of the Writ, and what Matter is sufficient to abate it for Form or Matter of the Writ, what not. B. 3. 53. b. 8. 87, 88, 159.

Where the Writ of Formedon in Descender ought to mention all those which held the Estate, to make him Heir to him that was last seized. B. 1. 36, 88.

In Descender which (*inasmul tenuit*) and where it lies. B. 8. 87.

Where and in what Cases a Formedon in Descender was at the Common Law. B. 3. 8, 9. b. 8. 72. b. 9. 132, 140.

Formedon in Remainder, the Form of the Writ, and what Matter is good and sufficient to abate it for Form or Matter of the Writ, what not. B. 8. 86, 87, 88.

Formedon in Reverter, Form of the Writ, and what is sufficient to abate it for Form, or Matter of the Writ, or not. B. 8. 87, 88.

Count in Formedon, in Descender, in Remainder, or Reverter, and what is good, what not. B. 3. 53. b. 8. 86, 87.

Where a Joint Writ of Formedon in Descender, Remainder, or Reverter is maintainable upon several Estates and Gifts, or not. B. 8. 86, 87, 88.

Where a Formedon is maintainable upon a Gift in Law, without a Gift in Deed. B. 10. 37.

For Lands recovered in Value. B. 10. 37.

Where Alienation before the Statute of *W. 2. c. 1.* bars in a Formedon founded upon a Gift before the Statute, or not. B. 3. 9. b. 8. 71. b. 9. 132, 140.

For

For the Heir of him to whose Use in Tail, Form of the Writ, and Count in it. B. 1. 47, 112, 137, 174. b. 6. 8. b. 7. 13.

Of a Copyhold, and the Plaint. B. 3. 8, 9. b. 4. 22, 23.

What Issue shall be taken in Formedon, what not. B. 4. 11.

Where Seisin in the Donee in Tail is not traverfable. B. 4. 11.

Where the Writ of Formedon in Discender shall be general, and the Count special. See Tit. *Writ*.

Bar in Formedon by Recovery. B. 5. 2 p. 32. b. 6. 7. See Tit. *Assurances*, and *Bar*.

Bar in Formedon by Fines levied. See Tit. *Fines*, and *Averment*.

Bar in Formedon by Warranty, with Affets. See Tit. *Affets*, *Warranty*, and *Statutes*, W. 2. c. 1. there.

## Form.

Of *Audita querela*. B. 5. 2 p. 86. See Tit. *Audita querela*.

Of the Writ of Right of Advowson. B. 4. 75. b. 5. 2 p. 102. b. 10. 136. See Tit. *Advowson*.

Of the Writ of Assize. B. 4. 37. b. 7. 3, 24. b. 8. 49. b. 3. Epist.

Of Writ of Debt against the Guardian. B. 6. 57. b. 9. 17. See Tit. *Writ*.

Of Writ of Debt, by, or against Executors. B. 8. 159. b. 9. 37. See Tit. *Debt*, *Executors*, and *Writ*.

Of the Writ of *Cessavit*. B. 8. 86, 118. See Tit. *Cessavit*.

Of Writ of Appeals. B. 4. 39, 47. See Tit. *Appeals*.

Of Writ of Conspiracy. B. 9. 56. See Tit. *Conspiracy*.

Of the Writ of Covenant. B. 5. 2 p. 8, 18, 19. See Tit. *Covenant*.

Of the Writ of Darrein Presentment. B. 8. 48, 49. See Tit. *Darrein Presentment*.

Form of the Writ of Reattachment and Resummons. B. 7. 29. See Tit. *Reattachment*, and *Resummons*.

Form of the Writ of Dower. B. 7. 38. See Tit. *Dower*.

Form of the Writ of Right close. B. 6. 11. See Tit. *Right*.

Form of the Writ of *Ejectione firmæ*. B. 9. 78. See Tit. *Ejectione firmæ*.

Form of Ejection of Ward. B. 10. 130. b. 11. 45, 46. See Tit. *Ejection of Ward*.

Form of Writ of Escheat. B. 8. 86. See Tit. *Escheat*.

Form of the Writ of Estreapment. B. 5. 2 p. 115. See Tit. *Estreapment*.

Form of the Writ of Forgery of false Deeds. B. 5. 2 p. 61. b. 10. 103. See Tit. *Of Forgery of false Deeds*.

Form of Writ of Right of Ward. B. 5. 2 p. 18. b. 8. 86. See Tit. *Ward*.

Form of Ravishment of Ward. B. 9. 73. See Tit. *Ward*.

Form of the Writ of Value of Marriage. B. 5. 2 p. 127. b. 6. 70, 75. b. 9. 73. b. 10. 119. See Tit. *Action upon Statutes*.

Form of false Judgment. B. 4. 33. See Tit. *False Judgment*.

Form of Writ of Mortdancestor. B. 7. 40. b. 8. 129. b. 9. 55. See Tit. *Mortdancestor*.

Form of the Writ of Mesne. B. 8. 86. See Tit. *Mesne*.

Form of Writ of *Quare Impedit*. B. 6. 49. See Tit. *Quare Impedit*.

Form of the Writ of Protections. B. 7. 8, 9, 21, 23. See Tit. *Protections*.

Form of the Writ of *Quo minus*. B. 1. 3. b. 6. 38. See Tit. *Quo minus*.

Form of the Writ of Waste. B. 4. 68. b. 5. 2 p. 12, 45, 75. b. 6. 44. See Tit. *Waste*.

Where a Writ Original shall abate in Default of Form, or not. B. 8. 157, 159. b. 9. 48. b. 11. 45. See Tit. *Demands*, and *Writ*, and *Amendment*.

Where a Writ Judicial shall not abate for Default of Form. B. 8. 157, 159. See Tit. *Appendment*.

Form of the Writ of *Scire facias*, to execute a Fine, or have Execution out of a Recovery. See Tit. *Scire facias*.

Where a Count shall not abate in Default of Form. See Tit. *Count*, and *Stat. 36 E. 3. c. 15*.

Several Forms of Counts in several Actions. See Tit. *Counts*, and in every several Action.

Where

*Foundation. Frank-almoigne. Frankmarriage. Franchises.*

Where the Form of the Writ shall be general, and the Count special. See Tit. *Writ*.

Form of entring Pleas. See Tit. *Entring of Pleas*.

Form to assign Errors. See Tit. *Errors*.

Of Pleaints in Assize. See Tit. *Assize*, and *Pleaints*.

The Order and Form to be observed in a Writ, where several Parcels are demanded. See Tit. *Demands*.

The Form of a Statute, or Recognisance. See Tit. *Recognisance*.

The Form of Warranty of Attorney. See Tit. *Warranty of Attorney*.

The Form of a Fine to Two, or more. See Tit. *Fines*.

The Form of Warranty in a Fine levied to two, or more, or to the Husband and Wife. See Tit. *Fines*.

The Form of alledging Esplees. See Tit. *Esplees*.

Form of Pleading. See Tit. *Pleadings*.

*Forsprise*. See Tit. *Exception*.

*Foundations.*

Where the King's Grant to a common Person to make a Foundation of a Chantry Hospital, or *&c.* is good, and by what Words, or not. B. 4. 107, 108. b. 7. 25. b. 8. 21. b. 10. 2 to 5, 8 to 16, 27, 30 to 35. See Tit. *Grant of the King*, and *Corporation*.

Where the King's Grant is sufficient to make a Foundation and Incorporation, and by what Words. B. 3. 73. b. 4. 10. b. 8. 10, 108, 115 to 121. b. 10. 29; 30, 31, 120 to 123. See Tit. *Grant to the King*.

Where and to what Intents and Purposes a Corporation and Foundation may be by Prescription without the King's Grant. B. 4. 65, 77. b. 10. 29, 30. See Tit. *Corporation*.

Where the King being Founder shall have a Corody, or Pension of Common Right. B. 9. 129. b. 10. 133. See Tit. *Corody*.

Where a common Person Founder of, *&c.* shall have a Corody, or Pen-

sion, or not. B. 9. 129. See Tit. *Corody*.

Where the King shall be said Founder of an House of Religion. B. 3. 74, 75. b. 9. 129. See Tit. *Corody*.

Where a common Person shall be said Founder, *&c.* B. 3. 73, 74, 75. b. 9. 129. See Tit. *Corody*.

Where the King's Grant to Men not incorporate shall be good, and make them to have Capacity. See Tit. *Grant of the King*, *Capacity*, and *Corporation*.

Where and by what Acts, or Accidents a Corporation and Foundation shall be dissolved and extinguished, and by what not. See Tit. *Corporation*.

*Frank-almoigne.*

Tenure in Frank-almoigne, how it shall be created and made, how it may be altered and changed, and where extinguished. B. 3. 3. b. 7. 13. b. 9. 123.

Tenure by him that has the Estate of him that holds in Frank-almoigne, and by what Services he shall hold. B. 9. 123.

Where *Cessavit* lies for Cessing of Services, of Lands held in Frank-almoigne. See Tit. *Cessavit*.

Where a *Contra formam collationis* lies upon Alienation of Lands, given in Frank-almoigne, and against whom. See Tit. *Contra formam collationis*.

*Frankmarriage.*

Where and what is a Gift in Frankmarriage, and where, and with what, and by what Person. B. 10. 117.

Where a Gift in Frankmarriage may be, notwithstanding a Remainder limited over, or not. B. 10. 117.

Where an *Habendum repugnant* destroys the Frankmarriage. B. 9. 14.

*Franchises.*

To have the Chattels of Felons and Fugitives, *&c.* and by what Words in the King's Grant a Man shall have them, and where by the Prescription, or

or not. B. 1. 50. b. 3. 33. b. 5. 2 p. 109. b. 9. 23, 25, 27, 29, 30. b. 10. 81. See Tit. *Prescription*.

Where the King shall have Prerogative that no Franchise, or Liberty shall rake Place against him. B. 1. 18. 33. b. 5. 2 p. 91, 92. See Tit. *Exemption*.

Confirmed by Statutes, and what, and how those Confirmations shall avail, and be construed. B. 8. 19, 21 to 127, 129. b. 5. 2 p. 62, 63, 64. See Tit. *Confirmation*.

To be discharged of Marriage by the Lord, and of Forfeiture of Marriage. B. 6. 73. See Tit. *Action upon Statutes, and Forfeiture*.

To make a Denizen not good, nor grantable by the King. See Tit. *Denizen, and Grant of the King*.

To make a Justice of Peace, or other Justices, &c. not grantable by the King. See Tit. *Grant of the King, and Statutes, 27 H. 8. c. 25*.

Of Leets. See Tit. *Leets, and Grants of the King*.

To have Waif and Estray. See Tit. *Waif, and Estray*.

To be exempt from Juries. See Tit. *Custom, Exemption, London*.

To devise Lands within Boroughs and Cities. See Tit. *Devise*.

To have a Market, or Fair. See Tit. *Fairs*.

To be discharged of Toll. See Tit. *Toll*.

To have a Warren. See Tit. *Warren, and Forests*.

To have Treasure found. See Tit. *Treasure found*.

To have Wreck of the Sea. See Tit. *Wreck*.

Where and what Actions given by Statutes may be maintained within a Franchise, or not. See Tit. *Action upon Statutes*.

Where Forfeit is of a Franchise, by not using, or abusing it, or &c. See Tit. *Forfeiture*.

To have Cognisance of Pleas, or to hold Pleas, and where it shall be claimed by the King's Grant, where by Prescription. See Tit. *Grant of the King, and Prescription*.

Where the Sheriff shall be a Trespassor by entering into a Franchise, upon Process directed to him, or not. See Tit. *Justification, and Non omittas*.

Of Resumption of Franchises and Liberties into the King's Hands. See Tit. *Resumption, and Statute 27 H. 8. c. 25*.

Where Franchise, or &c. seized into the King's Hands shall be replevied. See Tit. *Replevy, Forfeit, and Quo warranto*.

Where the King's Grant before the Time of Memory of Franchises allowed of later Time shall be sufficient, and bind the King. See *Grant of the King, and Trial*.

Where a Franchise may be claimed by a Corporation, tho' their Name be changed, and they incorporated by another Name. See Tit. *Corporation*.

To have Decodands. See Tit. *Decodands*.

Where Franchises are extinguished by Matters and Accidents happening of late Time, and by what. See Tit. *Extinguishment*.

Where Franchises are extinguished by coming into the King's Hands and Seisin, and what, where, and what not. See Tit. *Extinguishment*.

*Fraudulent Gifts.* See Tit. *Collusion*.

*Fresh Suit.*

To take a Felon, and have his Goods upon it, and where the Appraiser shall have Restitution of his Goods, or no. B. 5. 2 p. 109. 111. b. 6. 80. See Tit. *Appeal, and Restitution*.

Where upon fresh Suit he that lets a Prisoner escape, may retake him, and what is sufficient Fresh Suit in such Case. B. 5. 44, 52, 72. See Tit. *Escape*.

Where a Man may justify a Distress out of the Land held of him because of Fresh Suit. See Tit. *Distress*.

Where Age shall not be granted in a Writ of Entry, because it was freshly purchased against the Heir of the Disseisor. See Tit. *Age*.

*Fugitives. Gaol and Gaoler. Gavelkind.*

Of Fresh Suit in purchasing a Writ by Journies Accounts, and what shall be accounted sufficient Fresh Suit in such Case. See Tit. *Journies Accounts.*

Of Fresh Suit upon continual Claim. See Tit. *Continual Claim.*

Where Nufance shall abate upon freshly pulling down, otherwise not; and what Time shall be accounted freshly. See Tit. *Nufance.*

Of Fresh Suit, to have Goods waived and etrayed. See Tit. *Waif, and Efray, &c.*

*Fugitives.*

Of Fugitives, who go over Sea without the King's Licence, or with it, but return not upon his Command, and their Punishment. B. 2. 17. See Tit. *Contempt.*

Custom of London, that if the Debtor be fugitive, he may be arrested before the Day of Payment, to find better Surety. B. 8. 126. See Tit. *Custom, and London.*

**G.**

*Gaol and Gaoler.*

**A**uthority of a Gaoler, and where he shall be charged for Escape of a Prisoner, and what shall be a good Bar in Debt against him upon Escape. B. 3. 43, 52, 72. b. 5. 2 p. 86, 87, 88. b. 8. 142. b. 9. 68, 98. See Tit. *Escape, and Authority.*

Where a Man pardoned shall continue in Prison, notwithstanding his Charter be allowed. B. 6. 80. See Tit. *Charter.*

Where and what is Negligence in a Gaoler in criminal Causes. B. 7. 6 and 7. See Tit. *Escape.*

Of the Marshalsea, and the whole Matter concerning it. See Tit. *Marshalsea.*

Where the Gaoler shall be charged, and answer for the Act of his servant. See Tit. *Charge.*

Of Justices of Gaol-delivery, and their Authority. See Tit. *Justices.*

Where a Gaoler may retake a Prisoner who escapes, or not. See Tit. *Escape.*

*Gavelkind.*

Custom of Gavelkind. B. 100, 103, 159, 160. b. 4. 25. b. 6. 22, 60. b. 8. 86. b. 9. 133. See Tit. *Customs.*

Where Use of Gavelkind Land shall infuse the Nature of the Land, and descend, or remain as the Land, &c. B. 1. 101, 103. See Tit. *Subpoena, and Uses.*

Where the Son inheritable in Gavelkind, or Borough-English cannot indow his Wife, *Ex assensu Patris*, or &c. B. 6. 12. See Tit. *Dower.*

Where Custom of Gavelkind is gone and extinguished, or not. B. 4. 25. See Tit. *Customs.*

Where Gavelkind Land is not held by Knight-Service, till the Statute 31 H. 8. c. 3. b. 9. 103. See Tit. *Statutes.*

Where a Writ shall abate in the Whole, or Part by the Act of God. See Tit. *Writ.*

Where a Writ shall be purchased by Journies Accounts, the first abating by the Act of God, or not. See Tit. *Journies Accounts.*

Where a Condition, or Covenant, shall be discharged by the Act of God, or not. See Tit. *Condition.*

Where a Condition becomes impossible by the Act of God, and the Consequence of it. See Tit. *Condition.*

Where Lessee for Years, or &c. shall be discharged and excused of Waste, because it came by the Act of God. See Tit. *Waste.*

Where Laws human not founded upon the Law Divine, are not good. See Tit. *Common Law.*

Where a Man shall have an Action of Trespass, and punish the mean Trespass, without Re-entry by the Act of God. See Tit. *Trespass.*

Grand Serjeanty.

Every Barony is held by Grand Serjeanty. B. 2. 81. b. 9. 124.

Land held of the King by Grand Serjeanty forfeited to the King by Alienation without Licence, not so at this Day by the Statute 1 E. 3. c. 12. b. 2. 81. See Tit. *Alienation without Licence*, and *Statutes, Prerogative, c. 7.* and 1 E. 3. c. 12. there, and *Licence*.

What Relief he shall pay who holds by Grand Serjeanty. B. 7. 33, 34. b. 9. 124. See Tit. *Relief*, and *Stat. Mag. Chart. 2.*

Grants of a common Person.

Where a Grant is sufficient to charge the Land with Rent, and by what Words it is sufficient, by what not. B. 6. 39. b. 8. 154. See Tit. *Charge*.

Where by Grant of a Reversion Rents and Services pass, or not. B. 2. 68. b. 3. 23, 24. b. 4. 53, 54, 73. b. 5. 2 p. 3. 55. b. 6. 70. b. 8. 79. See Tit. *Attornment*.

Where and what Things appendant, appurtenant, or incident pass by the Grant of the Principal in the Case of a common Person, with the Words, with the Appurtenances where, and what not. B. 1. 122. b. 2. 32. b. 10. 64. See Tit. *Appendant*.

Of all his Lands and Tenements, what Things pass, what not. B. 4. 87. b. 7. 33, 34. b. 10. 107. b. 11. 50. See Tit. *Exposition*.

Of all his (Hereditaments) what passes, what not. B. 1. 121. b. 3. 2, 3, 8. b. 7. 33, 34.

Where by Grant of the Land the Reversion passes. B. 10. 107.

All his Goods and Chattels, what Things pass, what not. B. 8. 33. See Tit. *Gift*, and *Franchise*.

Where the Grant of the Lessor (during the Term) of the Trees, or other Things growing is good, or not. B. 4. 62, 63. b. 11. 48, 50, 81. See Tit. *Gift*, and *Woods*.

Where the Grant of a Reversion, or Remainder in Tail during the Life

of the Tenant in Tail is good, or not. B. 2. 51.

Where the Grant of the Reversion of one Tenant, there being two, or more, or of the Reversion of Parcel is good, or not. B. 2. 67. b. 3. 28. b. 8. 79. See above.

Where upon a Lease for the Life of the Lessor the Grant of the Reversion be good, or not. B. 2. 51, 61.

Where a Grant of a Rent, or *&c.* out of a Reversion; or such Thing as lies not in Demean, shall be good, and when it shall be given, or not. B. 1. 62, 127, 128, 154, 155. b. 2. 35, 52. b. 4. 48, 53. b. 5. 2 p. 2, 4, 7, 81, 94, 123, 124. b. 6. 35. b. 11. 48. See Tit. *Leases*, and *Reservation*, and *Remainder*.

Where a Grant in the Disjunctive is good, and who shall have Election. B. 2. 37. b. 5. 2 p. 22, 40. b. 6. 36. b. 10. 127, 128. See Tit. *Annuity*, *Gift*, and *Demand*.

Where the Grant of the Guardian in Socage, or for Nurture is good, or not. B. 3. 38, 39.

Of the first and next Advowson of the Church of, *&c.* how to be taken and construed. B. 8. 144, 145. See Tit. *Exposition*.

Where the Tenant of the Land may charge the Land by Grant of Rent during his Estate, and according to it, and if he grant for more, how it shall be taken and construed. B. 1. 76, 122, 139. b. 7. 23. b. 8. 145. See Tit. *Extinguishment*, and *Escheat*.

Where Grant of a Rent, or *&c.* to begin for the future Time, is good, or not. B. 1. 154, 155. b. 2. 55. b. 7. 38. b. 8. 74, 75, 95. See Tit. *Leases*, and the like.

Where a Rent granted out of Land, and another Thing not memorable, and upon which a Distress cannot be taken, shall be good, and how construed. B. 4. 53. b. 5. 2 p. 4. b. 7. 23. See Tit. *Reservation*, the like, and above.

Where a Grant by him that has two Estates in him at the Time of the Grant is good, and how it shall enure, and take Effect. B. 1. 42, 53. See Tit. *Estates*.

*Grants of a common Person.*

By the Tenant of his whole Estate, or by him who has Two Estates in him, what passes, and how much. B. 1. 45, 46. b. 2. 51, 52. b. 3. 84.

Where a Grant of a Thing which possibly and contingently may be, but is not in Possession of, &c. is good, or not. B. 2. 50, 51. b. 4. 66. b. 5. 2 p. 24, 25, 124. b. 10. 51.

Where Recital in a Grant is material, and makes it good, and where void by false Recital, or Misrecital, or not. B. 1. 46. b. 2. 33, 34, 67. b. 5. 10, 28. b. 4. 35, 74. b. 6. 36. b. 10. 110. See Tit. *Grant of the King*.

Where Grant of the Patron and Ordinary is good to charge the Church, and where the Person shall hold it charged. B. 1. 147. b. 5. 2 p. 81. See Tit. *Annuity, and Parson*.

Where a joint Grant of Rent, &c. shall become several by Construction of Law, and where it is severed by the Word (*Percipiendum*) and where Part of the Land shall be discharged by Words subsequent, or not. See B. 1. 84. b. 5. 2 p. 7, 8, 19. b. 10. 106, 107. See Tit. *Deeds, &c.*

Where by Grant of one Thing another passes as incident; implied, or intended in the Grant. B. 4. 73, 87, 88. b. 5. 2 p. 3, 55. b. 8. 79. b. 10. 28. b. 11. 52. See above, the Beginning.

Of Rent by Tenants in common, how to be construed. B. 5. 2 p. 7. See above.

Where a Grant is void for the Uncertainty in the Thing granted. B. 1. 155. b. 2. 67. b. 4. 55, 66. b. 8. 155. See Tit. *Deeds*.

Where a Grant is void for the Uncertainty in the Person, or Persons to whom, &c. B. 1. 85. b. 5. 2 p. 68. b. 8. 155. See Tit. *Deeds*.

Where a Grant of a Reversion, or Remainder by such Names, or of a Seignior, or Parcel of it is void. B. 2. 61, 67, 91. b. 3. 4. b. 4. 66. b. 5. 2 p. 124. See Tit. *Assignment, and Remainder*.

Of Estovers, and how they shall be taken. B. 4. 86. b. 5. 2 p. 117, 24, 25. b. 8. 47. See Tit. *Common*.

Where the Grant of an Office by a common Person is good, or not. See Tit. *Grant of the King*.

Where a Grant is void, because without Intendment. See Tit. *Deeds*, and above for *Uncertainty*.

Where a Grant shall be good without Deed, and what Things pass without Deed, what not. See Tit. *Deeds*, and *Corporation, and Licence*.

Where a Grant, Feoffment, or &c. is good, tho' the Grantee, or Thing granted be misnamed. See Tit. *Misnaming*.

Where a Grant shall be good without the proper Name of the Grantor, or Grantee. See Tit. *Capacity, and Name*.

Where and what Thing cannot be granted over. See Tit. *Appendant, Annuity, Assignment, and Deputy*.

Where Grants in the present, past, or Time to come shall be expounded, and taken one for another. See Tit. *Exposition*.

Where a Grant of a Common shall be good, and how taken. See Tit. *Common, and Exposition*.

In an ample Manner and Form, or in the best Manner that may be, or to the best Profit of the Grantee, and how these Words shall be taken and construed. See Tit. *Exposition*.

Where a Grant of a Thing in Absence is good, or not. See Tit. *Absence*.

Where a Grant of a Thing in Suspence is good, or not. See Tit. *Suspence*.

Where a void, or voidable Grant is good by Confirmation. See Tit. *Confirmation*.

Where and what Thing in Action, or Right may be granted by a common Person, where and what not. See Tit. *Thing in Action*.

Where Grants upon Conditions are void, and how, and when they shall cease and be void upon Conditions. See Tit. *Conditions*.

Where Grants, or &c. made by him to whole Use, are good, or not. See Tit. *Uses*.



*Grants of a common Person. Grant of the King.*

Where Grants in Remainder are good, or not. See Tit. *Remainder*, and *Capacity*.

Where the Grant of one Executor is good, and binds his Companion, and all their Estate and Interest shall pass. See Tit. *Executors*.

All his (demean Lands) what passes. See Tit. *Exposition*.

Where a Grant, Lease, or &c. made by a Parson of a Church before Induction is void. See Tit. *Encumbent*, and *Quare Impedit*.

Where a Lord by Grant, or &c. may alter and change the Tenure of his Tenant, or not. See Tit. *Tenure*, and *Confirmation*.

Where Grants of Annuities for Counsel, Service, or other Consideration are good, and how, and when such Grants and Annuities shall be determined, and cease. See Tit. *Annuities*.

Where Grants, or &c. made by Ideots, are void. See Tit. *Ideot*.

Where a Grant by, or to a Woman cont. is good, or not. See Tit. *Baron and Feme*, and *Agreement*.

Grant of a Corody, what Grant is good, what not. See Tit. *Corody*.

Where Grants to Corporations, or by them are good, or not. See Tit. *Corporations*.

Where Grants before the Time of Memory are good, or not. See Tit. *Trial*, and *Grant of the King*.

Where and what Things may be assigned over, what not. See Tit. *Assignment*.

Of Grants, and Grants and Rends by Fines. See Tit. *Fines of Lands*.

Of a Grant in Frankmarriage, and what is good, what not. See Tit. *Frankmarriage*.

Where a Grant of a Rent, Reversion, or Advowson by Tenant in Tail, or &c. is discontinued, or not. See Tit. *Discontinuance*.

Where Grants made by two who have several Estates and Interests are good, and how to be construed. See Tit. *Exposition*.

Certain Rules for the Construction of Grants. B. 1. 95, 100. b. 2. 24, 55

71, 75. b. 4. 81. b. 5. 2 p. 7, 8, 56, 79. b. 6. 36, 64. b. 7. 23. b. 8. 145, 152, 154 and 94. b. 10. 28. See Tit. *Deeds*, and *Entendment*. b. 3. 29. b. 7. 23, 24.

*Grant of the King.*

Where the King's Grant is good by these Words (of meer Motion, certain Knowledge, or of special Graces) or not. B. 1. 43, 44, 45, 46, 48, 49, 50, 51, 53. b. 2. 32, 50, 54. b. 3. 4, 73. b. 4. 34, 35, 75, 102. b. 6. 6, 55. b. 8. 45, 74. b. 9. 100, 101. b. 10. 63, 64, 109, 112, 113, 114. b. 11. 11.

Where the King's Grant made at the Instance of the Party out of false Suggestion, or false Consideration is void, or not. B. 1. 29, 30, 41, 43. b. 2. 54. b. 3. 33. b. 5. 2 p. 93. b. 6. 56. b. 10. 67, 81, 110, 111, 112, 113, 114.

Where the King's Grant is void for Default of Recital, false Misrecital, Misnaming, or &c. or not. B. 1. 43, 45, 46, 50, 51, 57. b. 2. 16, 17, 50, 54. b. 3. 10, 31, 73, 76, 78. b. 4. 35. b. 5. 2 p. 15, 93, 94. b. 6. 55, 56, 66. b. 7. 11, 12. b. 8. 28, 55, 56, 167. b. 9. 47. b. 11. 4. 67, 76. See Tit. *Statutes*, 34 H. 8. ch. 2. 18 Eliz. c. 2. 43 Eliz. c. 1. there of Confirmation of Letters Patents, and Grants, &c.

Where the King's Grant is void to all Intents, because he was deceived in his Grant, and not apprised of the Law, or Grant. B. 1. 29, 35, 43 to 52, 53. b. 2. 16, 17, 33, 34, 54. b. 3. 73, 74, 78. b. 4. 33, 34, 35. b. 5. 2 p. 94. b. 6. 29, 55, 56, 66. b. 7. 12, 14. b. 8. 55, 56, 74, 77, 94, 165, 166, 167. b. 9. 46, 47. b. 10. 27, 64, 65, 67, 112. b. 11. 4, 11, 87, 90.

Where the King's Grant is void to all Intents, because not in his Power to grant, and what Things he cannot grant by Letters Patents. B. 4. 33, 34, 35. b. 5. 2 p. 28, 48, 50, 51. b. 6. 73. b. 7. 7, 25, 36, 37. b. 8. 16, 17, 19, 22, 55, 77, 125, 126. b. 9. 97, 123. b. 10. 113. b. 11. 4, 53, 85, 89, 90.

Where

Grant of the King.

Where the King's Grant is void, because the Value of the Thing granted is not furnished and suggested to him. B. 3. 33. b. 10. 81. See Tit. *Statutes*, 1 H. 9. c. 6. See above.

Where the King's Warrant is void, because no Office was found before the Grant, and where good without Office found. B. 1. 42. b. 3. 10. b. 5. 2 p. 55, 56. b. 6. 5. b. 7. 11, 12. b. 8. 166. b. 11. 2. See Tit. *Office before Escheators*, and *Entry Congeable*.

Where the King's Grant, or a common Person's before the Time of Memory is not available. B. 9. 34. See Tit. *Trial*.

Where the King's Grant by Words general is void for the Incertainty, or not; and the Exposition of them. B. 3. 4. b. 4. 66. b. 7. 14. b. 8. 45, 46, 55, 56. b. 9. 23, 29, 30, 47. b. 10. 26, 27, 64, 65, 112, 113. b. 11. 11. Below.

Where a Grant of Charter of Pardon of all Debts and Demands shall extend to all Debts, or not; and what Debt is pardoned, what not. B. 1. 50. b. 5. 2 p. 56. See Tit. *Charter*.

Where a Thing appendant, incident, or regardant passes by the King's Grant of the Manor, to which, &c. or &c. by the general Words (with the Appurtenances) and without special Words, or not. B. 1. 50. b. 3. 31. b. 5. 2 p. 11. b. 6. 66. b. 7. 19. b. 10. 64, 65. See Tit. *Statutes*, *Prerogatives*, c. 15. there.

Where the Grant of Franchises has (*Tot & talia qualia*, &c.) and how those Words shall be taken and construed. B. 9. 23, 25, 26, 29, 30. See Tit. *Relation*.

Where the King's Grant to a common Person to make a Foundation of a Chantry Hospital, or &c. or to amortise Lands to it, is good, and by what Words. B. 7. 25. b. 8. 81. b. 10. 2 to 5, 8 to 16, 27, 30 to 35. See Tit. *Corporation*.

Where the King's Grant of a Thing which by Possibility he may have, is good, or not. B. 3. 29. b. 5. 2 p. 63. b. 6. 73. b. 7. 14.

Where the King's Grant of a Re-

version by the Name of a Reversion is good, and where the King's Reversion will pass by another Name, as Lands, Tenements, or not. B. 1. 45, 51. b. 4. 35. b. 6. 55, 65. b. 8. 55, 57. b. 10. 63. See Tit. *Exposition*, for the Exposition of Lands, &c. and *Remainder*.

Where the King's, or a common Person's Grant of an Office is good; and where it ought to have the Words (We have constituted, &c.) and where a Grant of an Office to the King is good, or not. B. 1. 51. b. 4. 33. b. 8. 55, 56, 57, 95. b. 9. 44, 45, 46, 47, 99, 100, 101. b. 11. 3, 4.

Where the King's Grant is sufficient to make a Corporation, and by what Words, what not. B. 3. 73. b. 8. 107, 108, 115 to 121.

Where the King's Grant of Cognisance of Pleas is not good without shewing Allowance heretofore, &c. and Allowance, in what Court, and before what Justices, is sufficient. B. 9. 25 to 29. See Tit. *Prescription*.

Where the King's Grant to a Body not incorporate, nor capable, is good; and makes them capable, or not. B. 10. 27 to 31.

Where the King's Grant of Land, or &c. to a Person incapable, is good, or not. B. 1. 52. b. 3. 73. b. 5. 2 p. 56. See Tit. *Capacity*.

Where the King's Grant enures to Two Intents, and where it hath Two Intents, what shall be taken, and how construed. B. 1. 46, 52. b. 3. 73, 74. b. 5. 2 p. 56. b. 7. 14. b. 8. 56, 67. b. 10. 27, 67. b. 11. 11.

Where a Prerogative of the King's may be granted over, and the Grantee have it as fully as the King had it, or not. B. 2. 44. b. 4. 55, 73. b. 5. 2 p. 56. b. 7. 25. See Tit. *Prerogative*, and *Stat. 27 H. 8. c. 24*.

Where the King's Grant is void, because no *ad quod damnum* was sued upon it, and where it needs, or not. B. 10. 142.

Where the King's Grant is good against the Heir, or Successor, and binds them, tho' not the Grant, nor Letters Patents speak for him, his

Heirs, or Successors, or not. B. 8. 108, 109. See Tit. *Heir*.

All his demean Lands, what passeth. B. 1. 46. See Tit. *Exposition*.

Where and what Grants of the King shall cease and determine by his Death. B. 1. 44, 45; 47, 48. b. 7. 30.

Where the King's Grant is good, without Confirmation of his Successor King, or not. B. 8. 167. See Tit. *Confirmation*.

Where the King's Grant or Charter to dispense with a Statute, is not good without the Clause of *Non obstante*, &c. and where not good, tho' that Clause be inserted. B. 4. 35, 103. b. 5. 2 p. 37, 38. b. 7. 14. b. 8. 6, 14, 29, 108, 109. b. 11. 9, 19. See Tit. *Charter*.

Of a Thing in Action, and what Thing in Action the King may grant, what not. B. 3. 1, 3, 4, 5, 11. b. 11, 12. See Tit. *Thing in Action*.

Where the King's Grant to be exempt of Juries is good and allowed, or not. B. 8. 18, 108. See *Exemption*.

Where the King's Grant is good to be discharged of the Fifteenth, or the Collection of it. B. 8. 56. See Tit. *Exemption*.

Where the King's Grant of a Fair, or Market is good. See Tit. *Fair*, and *Market*.

Where the King's Grant of Aliens Lands seized into his Hands, is good. See Tit. *Alien born*.

To be discharged of Toll, and where, and what is good. See Tit. *Toll*.

Where the King's void or voidable Grant may be made firm and good by the King's Letters Patents, or Act of Parliament. See Tit. *Confirmation*.

By Deeds inrolled, where, and when good. See Tit. *Inrollments*.

Where the King's Grant shall not be avoided for Nonage. See Tit. *Age*, and *Prerogative*.

Where the King grants Land without express Tenure, how, and by what Tenure the Grantee shall hold. See Tit. *Tenure*.

Where the King ought to grant Land to be held of the chief Lord. See Tit. *Tenure*.

Where the King may grant Land, or &c. to the Queen his Wife. See Tit. *Prerogative*, and *Aid of the King*.

Where a Grant, Feoffment, or &c. by the Queen alone is good. See Tit. *King and Queen*, *Aid of the King*, and *Prerogative*.

Under what Seals the King's Grants ought to be. See Tit. *Seals*.

Where the King shall be estopped by his Letters Patents of Grant, and others also shall be estopped by them. See Tit. *Estoppel*.

Where and what Grant of the King of Ideots, Lunaticks, or their Lands and Goods, is good, or not. See Tit. *Ideots*.

Where and what Grantees of the King shall have Aid of him. See Tit. *Aid of the King*.

Where Writ of Dower lies against the Grantee, or Committee of the King of Ward. See Tit. *Dower*.

Where a Man may make Title, and justify in Action, as Grantee of the King, without shewing the Letters Patents of the King, or not. See Tit. *Monstrance of Deeds*.

Where the Grantee of the King of a Reversion shall enter for a Condition broken, or not. See Tit. *Condition*.

The Form of pleading the Letters Patents of the King's Grants. See Tit. *Pleadings*.

Where the King's Grant is good, because of Reputation. See Tit. *Reputation*.

Of Cognisance of Plea, or to hold Pleas. See Tit. *Cognisance*.

Certain Rules and Directions for the Exposition of the Grants, and Letters Patents of the King. B. 1. 43, 45, 50. b. 3. 5. b. 5. 2 p. 50. b. 6. 13, 79. b. 8. 45, 56, 74, 77, 117. b. 10. 64, 65, 67, 110, 115. b. 11. 11.

Gifts, and Sale.

All my Goods and Chattels, what Things pass, what not. B. 8. 33.

Of Goods to a Man absent, good until Disagreement. B. 3. 26, 27. See Tit. *Agreement*, &c.

Where

*Gifts and Sale. Habeas Corpus, or Corpora. Habere facias seisinam. Heriots.*

Where a Gift of Goods is good, notwithstanding the Giver be out of Possession at the Time of the Gift, or not. B. 4. 66.

In the Disjunctive, and where good, and who to have Election, the Donor, or Donee. B. 2. 37. b. 8. 155. See Tit. *Demand, and Election.*

Where void, because of Incertainty in the Thing granted, or the Person to whom, &c. See Tit. *Grant.*

Where a Gift, or Sale of Trees growing upon the Land, by Tenant in Tail, binds the Issue, and shall be good after his Death, or not. See Tit. *Woods.*

Where a Gift of Goods to a Woman covert is good. See Tit. *Agreement, and Baron and Feme.*

Where a Gift of Goods by an Infant is void, where voidable. See Tit. *Infant.*

Where a Gift of Goods shall be void, because of Covin, to defraud Executions, or Creditors. See Tit. *Collusion.*

Where a Gift, or Sale of Trees by the Lessor during the Term is good, or not. See Tit. *Woods.*

Where an Estate of Franktenement by Gift may be in Chattels. See Tit. *Chattels, and Remainder.*

Where a Bargain, and Sale of Goods and Chattels of other Mens by Commissioners is good. See Tit. *Commissioners.*

Where a Gift, or Sale of Goods distrained for Amercement, or &c. is good. See Tit. *Distress.*

Where a Bargain and Sale by the Sheriffs of Goods and Chattels of other Mens shall be good upon a Writ of Execution. See Tit. *Execution.*

Of a Thing in Action, or a Right, where good, or not. See Tit. *Things in Action, and Right.*

Where a Gift of Goods of a Villain is good, or not. See Tit. *Continual Claim.*

Where a Gift to himself is good, or not. See Tit. *Exposition.*

H.

*Habeas Corpus, or Corpora.*

WHERE and in what Courts the Process against the Jurors is by *Habeas corpora*, in what not. See Tit. *Courts.*

What Return of the Sheriff is good upon *Habeas corpus*, or *Corpus cum causa*, what not. See Tit. *Return of the Sheriff.*

What Return of the Sheriff is good upon *Venire facias* against the Jurors, or upon the *Habeas corpora*, or *Distring.* See Tit. *Return of the Sheriff.*

Where *Habeas corpora* anew shall be awarded against the Jurors, and why. See Tit. *Enquest.*

Where and who shall be removed, &c. by *Corpus cum causa*, or *Habeas corpus*, who not. See Tit. *Corpus cum causa.*

Where and what Prisoners removed by *Corpus cum causa*, or *Habeas corpus*, shall be remanded back. See Tit. *Corpus cum causa, Removing, and Remand.*

*Habere facias seisinam.*

How Execution shall be made upon a Writ of *Habere facias seisinam*, and by what Thing the Sheriff shall put the Party in Possession. B. 1. 94, 97, 105. S. Tit. *Execution.*

What Return by the Sheriff is good upon a Writ of *Habere facias seisinam*. B. 5. 2 p. 91. b. 6. 62. See Tit. *Execution, and Return of the Sheriff.*

*Heriots.*

What shall be said Heriot-Custom, what Heriot-Service, &c. B. 8. 105.

Where and what Tenant shall pay Heriot. B. 8. 105. b. 10. 55, 56.

What shall be good Avowry, or Cognisance for Heriot in Replevy, or Justification in Trespass. B. 8. 104, 105. b. 10. 55, 66.

Where Two Heriots shall be paid for one same Land, where one only was paid before. B. 6. 1. b. 8. 105.

Where many purchase Lands jointly, no Heriots shall be till the Death of the Survivor. B. 8. 105.

Where Heriot shall not be apportioned. See Tit. *Apportionment*.

Where Heriot shall be extinguished by Unity of Possession, or not. See Tit. *Extinguishment*.

## Heir.

Where and what Chattels, or Things personal the Heir shall have after the Death of his Father. B. 2. 93. b. 4. 63. b. 7. 17. b. 8. 118. b. 10. 128, 129. b. 11. 92. See Tit. *Chattels*.

Where and what Goods and Chattels the King, Heir, or Successor shall have, and not the Executors. B. 9. 97. b. 11. 92.

Where and what Charters of the Land the Heir shall have as belonging to him. B. 1. 2. See Tit. *Charters*, and *Detinue*.

Where a Man shall be charged in Debt, as Heir to the Ancestor, and what Person shall be charged, and what Lands. B. 3. 12, 13, 14. b. 2. 25. See Tit. *Assets*, and *Execution*.

Bar in Debt against the Heir, where the Obligation, or &c. of his Father is sued, and what shall be good, what not. B. 5. 2 p. 36. b. 6. 47. See Tit. *Assets*.

Where an Heir shall not be charged in Debt, nor in a Writ of Annuity, for the Debt of his Father, if he be not mentioned in the Deed. B. 10. 128. See Tit. *Annuity*, and *Assets*. b. 7. 9.

Where a Writ of Formedon, and &c. shall abate, because the Demondant has not made himself Heir to him that was last seized; nor made Mention of all those who held the Estate. B. 8. 88. See Tit. *Formedon*.

Where an *Audita querela* lies for the Heir of the Reconusor, or no. B. 3. 12. See Tit. *Audita querela*, and *Contributions*.

Where Reservation of Rent to an Heir, without any Reservation to the Party himself, is good. B. 2. 35. See Tit. *Reservation*.

Where a Man may have an Heir during his Life, or not. B. 1. 66. b. 2. 48. b. 3. 38. b. 5. 2 p. 112. b. 6. 22. b. 8. 16.

Where a Man shall vouch, or rebut the Warranty, that is not Heir, and where he shall be vouched who is not Heir, but because of Possession with the Heir. B. 8. 101. See Tit. *Voucher*, and *Rebutter*.

Where a Man shall have *Scire facias* against the Heir when Assets descend to him, altho' he had not Assets at the Time of the Formedon brought. B. 8. 53, 134. See Tit. *Scire facias*, and *Assets*.

Where a Man shall have an Estate of Inheritance, without the Words (Heirs, or Successors) or not. B. 1. 85, 86, 87, 100, 103, 105. b. 3. 21. b. 4. 29. b. 5. 2 p. 112. b. 6. 16, 17, 27. b. 10. 10, 57. See Tit. *Estates*.

Where a Man shall not have an Estate of Inheritance by Feoffment, Grant, or &c. though his Heirs are mentioned in the Deed. B. 1. 43, 46, 66, 85, 86, 104, 105, 140, 155. b. 2. 23, 24. b. 4. 29. b. 5. 2 p. 113. b. 8. 23, 24, 27. See Tit. *Estates*.

Where an Heir shall take an Estate in Lands by Purchase, and not by Descent, and upon what Manner of Limitation. B. 1. 54, 61, 78, 83, 95, 98, 137, 155, 156. b. 2. 36. b. 3. 61. b. 4. 15. b. 6. 17. See Tit. *Capacity*, and *Remainder*.

Where Lands vested by Descent, or Purchase in the Heir, shall be after devested by another, who is the more near Heir, or no. B. 1. 95, 98, 99, 102, 137. b. 3. 61, 62. b. 7. 8. See Tit. *Descent*, and *Vest*, and *Devest*.

Where a Man shall be vouched as Heir in his Mother's Belly. B. 7. 8, 9. See Tit. *Capacity*, and *Voucher*.

Where a Man shall vouch as Heir, tho' he be in by Purchase. B. 1. 1, 6, 69, 98. See Tit. *Voucher*.

Where a Writ of Debt lies not against the Heir upon the Recognition of his Father. B. 3. 15.

Where the Heir shall not have the Arrearages incurred in the Time of his Ancestors. See Tit. *Arrearages*, and *Statutes*, 32 H. 8. c. 37.

Where and what Lands shall be Affets to charge the Heir for the Debt of his Father, or a Bar to him in Formedon. See Tit. *Affets*.

Where a Man shall recover in Value against the Heir, the Lands taken in Exchange for the Lands to him descended. See Tit. *Recovery in Value*.

Where Recovery in Value shall be against the Heir, where he is vouched in the Ward of divers. See Tit. *Recovery in Value*.

Where an Estate in Frank-tenement, or of Inheritance shall be in Chattels, so that they shall descend to the Heir. See Tit. *Chattels*.

Where the Heir shall be charged upon Covenant made by his Ancestor, and shall have an Action of Covenant upon Covenant made to his Ancestor. See Tit. *Covenant*.

Where an Heir shall be in Ward, and who shall have his Wardship. See Tit. *Ward*, and *Guardian*.

Where a Man shall have Land by Discent, and may enter, or have an Action, altho' the Ancestor was attainted. See Tit. *Discent*.

Where the Entry of the Heir shall be congeable by Right where Title descends. See Tit. *Entry Congeable*.

Where the Entry of the Heir shall be lawful where the Entry of the Ancestor was not. See Tit. *Entry Congeable*.

Where the Entry of the Heir upon Discent to him shall be lawful, because of Privy of Blood. See Tit. *Entry Congeable*.

Where an Entry is lawful upon the Heir who is in by Discent after Recovery against the Ancestor. See Tit. *Entry Congeable*.

Where an Heir shall have Writ by Journies Accounts. See Tit. *Journies Accounts*.

Where the Entry of the Heir of the Wife is congeable, notwithstanding Discontinuance by the Husband. See Tit. *Entry Congeable*, and *Discontinuance*.

Appeal by the Heir of the Death of his Ancestor, and who shall be said Heir to have an Appeal, and who not. See Tit. *Appeals*.

Where a Writ of Ward shall abate by the Death of the Heir, or because he has accomplished his Age hanging the Writ. See Tit. *Writ*, and *Ward*.

Where and what Averment the Heir shall have against a Fine levied by his Ancestor. See Tit. *Averment*.

Where Attornment shall be after Death of the Grantor, or Grantee to the Heir, or by the Heir. See Tit. *Attornment*.

Where an Heir shall have Rent reserved upon a Lease for Years, or *Et c.* without Reservation to him, or enter for the Condition broken without express Mention made of him. See Tit. *Reservation*, and *Condition*.

Where a *Subpoena* lies, and is maintainable against the Heir of the Feoffee to Use. See Tit. *Subpoena*.

Where and who shall be the Heir by Common Law, or Custom to have a *Subpoena* upon Feoffment to Use. See Tit. *Subpoena*.

Where an Heir shall not have *Cessavit* of cessing in the Time of his Father; nor shall the Aunt and Niece join in Action for it. See Tit. *Cessavit*.

Where the Heir, Aunt, and Niece shall have Action for Waste done in the Time of the Ancestor. See Tit. *Waste*.

Where the Heir shall have Election upon Grants made to his Ancestor, or no. See Tit. *Election*.

The Form of pleading Discent where a Man conveys Title to himself as Heir. See Tit. *Pleadings*.

The several Ages to be in Ward. See Tit. *Ward*, and *Age*.

Where the Heir shall have his Age. See Tit. *Age* thorough.

*Herefy. Homage and Fealty. Hors de son fee. Hosteler.*

What shall be said within the Statutes 32 of H. 8. c. 1. 34 H. 8. c. 5. of Wills and Wards.

Where upon vouching one as Cousin and Heir, he must shew how Cousin. See Tit. *Cousinage*.

Where Issue shall be taken and joined, whether he be Son and Heir, or no such Son, or &c. and the Form of Pleading and from what Place the Venew shall come to try such Issues. See Tit. *Issues joined, and Visne*.

Form of the Writ of Debt against the Heir, and whether it shall be in the *Debet*, or *Detinet*. See Tit. *Debt*, and *Form*.

How, and when Homage shall be made by the Heir upon Livery sued. See Tit. *Livery*.

*Herefy.*

How, and by whom Herefy was tried and determined by the Common Law, and how now by the Statutes. B. 5. 23. See Tit. *Statutes*, and 2 H. 4. c. 15. b. 5. 2 p. 58.

Where Action of the Case lies not for calling a Man Heretick, but the Suit shall be in the Court-Christian. B. 4. 17. See Tit. *Action of the Case*.

Where an Heretick is not capable of Ecclesiastical Function, but may be refused by the Bishop. B. 5. 2 p. 58. See Tit. *Encumbent*, and *Quare Impedit*.

*Homage and Fealty.*

The Form and Manner how Homage and Fealty are to be done, and when to be done and tendered. B. 4. 8. b. 7. 5. Homage double. b. 7. 7.

Who shall do Fealty, who not. B. 3. 79. b. 4. 11. b. 7. 10. b. 10. 32. who Homage, who not. b. 4. 11. b. 6. 57. b. 7. 10.

Where Fealty, or Homage may be done, or received by a Bailly, Steward, or Attorney, or not. B. 9. 76.

Who shall be compelled to take Homage, and who may refuse it, but then shall not after have it without Request. B. 8. 75.

Where *Cessavit*, nor other *Præcipe quod reddat* lies not of Homage, or Fealty. B. 5. 2 p. 8. See Tit. *Cessavit*.

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Bar in Dower by Reason of Jointure, and where, and what Jointure is good and sufficient to bar a Woman to have Dower, what not. See Tit. *Dower.*

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What Issue shall be taken in Waste. See Tit. *Waste*.

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Where of his own Wrong without such Cause, without answering the special Matter alledged, makes good Issue, or not. B. 8. 66, 67.

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Where a Man shall not have Judgment given by Statute, unless his Action be founded upon it. B. 9. 72, 74. See Tit. *Process*.

Of Judgments of Damages in Actions. See Tit. *Damages*.

Of Judgments touching Fines to the King. See Tit. *Fines to the King*.

Of Judgments touching Imprisonment. See Tit. *Imprisonment*.

Of Judgments upon Departure in Despight of the Court. See Tit. *Departure in Despight*, &c.

Of Judgment upon *Retraxit*. See Tit. *Retraxit*.

Of Judgment by Return of Beasts. See Tit. *Return of Beasts*.

Of Judgments against Infants, and where they are bound by Judgment, or not. See Tit. *Infant*, and *Falsifying of Recovery*.

Where Judgment is that the Deed shall be condemned and cancelled. See Tit. *Deeds*.

Of Judgment in *Partitio facienda*. See Tit. *Partition*.

Where upon Recovery a Man shall be adjudged presently in Possession by the Judgment. See Tit. *Execution*, and *Recovery*.

Where Judgment shall be given upon Confession in Pleading. See Tit. *Confession*.

Of Judgment in Admeasurement. See Tit. *Admeasurement*.

*Jurisdiction*.

Where the temporal Court may have Jurisdiction of a Thing spiritual, and betwixt Two spiritual Persons in Debt, Account, or &c. or not. B. 2. 44. b. 5. 16. See Tit. *Consultation*.

*Furis utrum. Furors.*

Where the temporal Court has Jurisdiction in Account, or *&c.* for, or concerning Oblations and Offerings, *&c.* or not. B. 5. 9. 20. 2 p. 51.

Where the temporal Court shall have Jurisdiction of Tithes. B. 11. 25. See Tit. *Affize.*

Where the temporal Court shall have Jurisdiction of Tithes, the King being Party. B. 2. 44. See Tit. *Consultation.*

Where the temporal Court has Jurisdiction in Trespafs betwixt a spiritual Person, and the Servant of another spiritual Person, for taking of Goods claimed as Tithes. B. 2. 44, 45. See Tit. *Consultation.*

Where the temporal Court has Jurisdiction in Trespafs of Goods taken, and claimed as Tithes, where the Plaintiff is a temporal Person, or not. B. 2. 44. See Tit. *Consultation.*

Where the temporal Court shall have Jurisdiction in Debt, or *&c.* for Matrimony. See Tit. *Consultation.*

Where the temporal Court shall have Jurisdiction in Suit for Mortuary. See Tit. *Consultation.*

Where the temporal Court has Jurisdiction in Suit for Defamation, or Slander. See Tit. *Prohibition.*

Where the temporal Court has Jurisdiction for Breach of Faith. See Tit. *Prohibition.*

Of Jurisdiction of Justices in their several Places. See Tit. *Justices.*

Where the temporal Court has Jurisdiction of Tithes, because they amount to the third, or fourth Part of the Value of the Church. See Tit. *Advocaton, and Consultation.*

Where the Court shall be outed of its Jurisdiction, where the King is Party. See Tit. *Prerogative.*

*Furis utrum.*

Where a Parson of a Church loses by Default in Action real, the Successor shall have *Furis utrum* after. B. 6. 8.

Where the Successor of a Party, or *&c.* shall have a *Furis utrum* after Judgment in a Writ of Right against

his Predecessors. B. 6. 8. See Tit. *Right, and Falsifying a Recovery.*

It is a Writ of Right for a Parson, or *&c.* B. 6. 8.

What is a Bar in *Furis utrum*, what not. B. 6. 8. See Tit. *Acceptance.*

Where the Successor of a Parson, or *&c.* shall falsify a Recovery had against his Predecessor in a *Furis utrum*. See Tit. *Falsifying Recovery.*

*Furors.*

Where Jurors shall fine to the King, and for what Offences, and Misdemeanors. B. 8. 41. b. 11. 43. See Tit. *Fine to the King, and Amercement.*

How the Justices may order the Inquest, and their Authority over them, as to Eating, and Drinking, and other Things. B. 5. 2 p. 40. b. 8. 41.

Where a Juror shall be demanded upon Pain, and to what Value the Pain shall be. B. 8. 41. See Tit. *Pain.*

What Persons shall not be impannelled upon Juries, and how they shall be discharged, and where they shall have an Action against the Sheriff for impanelling them. B. 6. 53. b. 9. 49.

Trial of Challenge to Jurors, and how the Court shall order the Trial of them. B. 9. 32. See Tit. *Challenge.*

Where an Inquest, or Trial shall be of Jurors out of the Standers by, and how. B. 1. 14, 19, 114. b. 2. 19, 29, 32. b. 3. 18, 45, 68. b. 9. 43. b. 10. 103, 104. See Tit. *Statutes*, 35 H. 8. c. 6.

Where Amercement shall be of Jurors. See Tit. *Amercement.*

Where Imprisonment shall be of the Jurors. See Tit. *Fine to the King, and Imprisonment.*

What Manner of Process shall be awarded against Jurors, and the Difference betwixt Courts in awarding it. See Tit. *Courts.*

Where several *Venire facias*'s shall be awarded against the Jurors, or but against one. See Tit. *Inquest.*

Where *Venire facias* of Tales shall be awarded against Jurors, and how many

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many of the *Tales* shall be awarded. See Tit. *Enquest.*

Where a Jury shall be taken of *Tales*, where the Principal is quashed, or not. See Tit. *Enquest.*

Where upon Issue joined for Parcel, or one Defendant, and Demurrer for the other Parcel, or Defendant, no Process shall be awarded against the Jurors, till the Demurrer be discussed, and where contrary.

Where Jurors ought to have the View, and how, and how many of them. See Tit. *View.*

Where a Moicity of the Jurors ought to be Strangers. See Tit. *Alien born.*

Where the Jurors ought to take Cognisance of a Thing in a foreign County. See Tit. *Enquest.*

Where Jurors ought to take Cognisance of a Thing spiritual. See Tit. *Enquest.*

Where Jurors take Cognisance of Matter of Record. See Tit. *Enquest.*

Where Jurors shall take Cognisance of a Thing done over Sea. See Tit. *Enquest.*, and *Ireland.*

Where Jurors try a Thing before the Time of Memory. See Tit. *Trial.*

Where Jurors shall not try Matters in Law, but their Finding as to them is void and vain. See Tit. *Enquest.*

How Jurors of the great Assize shall be chosen upon a Writ of Right. See Tit. *Right.*

Of Challenge to Jurors, and the whole Matter concerning it. See Tit. *Challenge.*

Of Exemption of Jurors, and the Matter concerning it. See Tit. *Exemption.*

*Justices.*

Form of the Writ of Justices. B. 6. 11.

Who is Judge upon the Writ of Justices, &c. B. 6. 11, 45.

The Sheriff's Authority upon the Writ of Justices directed to him. B. 6. 11.

Where false Judgment lies upon a

Plea held by Justices. See Tit. *False Judgment*, and *Error.*

*Justices.*

Of the King's Bench, and their Authority. B. 4. 46, 47. b. 9. 90, 118. b. 10. 73. b. 11. 65, 98. See Tit. *Courts*, and *Statutes*, *Magna Charta*, c. 11. and *Bench of the King.*

Of the Common Bench, and their Authority. B. 10. 76. See Tit. *Statut.* *Magna Charta*, c. 11. and *Common Bench.*

Of Gaol-Delivery, and their Authority. B. 4. 46, 47. b. 6. 20. b. 7. 12. *Cal.* b. 9. 118. b. 11. 62.

Of the Barons of the Exchequer, and their Authority, and of what Matters and Pleas this Court has Jurisdiction, of what not. B. 2. 16, 50. See Tit. *Exchequer*, and *Courts.*

Of Assize, and their Authority. B. 3. 57. b. 10. 53, 54, 103. b. 11. 62.

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In Eire, and their Authority. B. 2. 80. b. 5. 5. b. 6. 20. b. 7. 12. b. 8. 37, 39. b. 10. 71.

Of Oyer and Terminer, and their Authority. B. 4. 46, 47. b. 9. 56, 118. See Tit. *Oyer and Terminer.*

Of Peace, and their Authority. B. 5. 2 p. 59, 111. b. 7. 9, 10, 12. b. 8. 120. b. 9. 118, 119. b. 10. 53, 54, 76, 77.

Where and what Justices may hear and determine Causes, and give Judgments, &c. by Virtue of their Office, without special Commission. B. 4. 46, 47. See Tit. *Statutes*, W. 2. c. 30. there.

Of Forests, and their Authority. See Tit. *Forests.*

Before what Justices a Man becomes an Approver. See Tit. *Appeals.*

What Justices have Authority to take Inditelements. See Tit. *Inditelements.*

How Justices may order the Enquest for Eating and Drinking, or touching other Matters. See Tit. *Enquest.*



## Justification.

What Justices have Power to take Cognizance of Fines, what not. See Tit. *Fines of Lands*.

Where a Justice of Record shall be punished for Misdoing, Negligence, or *&c.* and how. See Tit. *Enditement*, and *Conspiracy*.

Where Justices may respite their Judgments. See Tit. *Judgments*.

Where Justices ought not to surcease as to do Justice, neither for the Privy Seal, nor Signet. See Tit. *Supersedeas*, and what Statutes, 2 E. 3. 20 E. 3.

Where the Justices may proceed and award Execution, notwithstanding a Writ of Error brought. See Tit. *Error*.

Where Estoppel shall be by Certificate, or other Thing recorded by a Justice of Peace. See Tit. *Estoppel*.

Who is Judge in Court-Lect. See Tit. *Lects*.

Where and in what Courts the Suitors are Judges. See Tit. *Justicies*, and *Suitors*.

Where Justices are bound to take Notice of Customs without the pleading of the Party. See Tit. *Notice*.

Where and of what Acts of Parliament the Justices are bound to take Notice of Duty without pleading of the Party, or not. See Tit. *Notice*, and *Parliament*.

## Justification.

By the Sheriff in Trespass, or false Imprisonment, and what is good, what not. B. 5. 2 p. 91, 93. b. 6. 52, 54. b. 9. 68. b. 10. 70.

By a Constable in Trespass, or false Imprisonment. B. 5. 2 p. 59. b. 9. 68. b. 11. 44.

By Watchmen in false Imprisonment, or Trespass. B. 9. 66, 68. See Tit. *False Imprisonment*.

Where a Fray is Cause justifiable to arrest a Man. B. 11. 44. See Tit. *Affray*, and *False Imprisonment*.

Justification in Trespass, or false Imprisonment, for finding Surety for the Peace. B. 5. 2 p. 59. b. 6. 54. b.

9. 68. See Tit. *Peace*, and *False Imprisonment*.

Where Arrest of a Man is good and justifiable, without shewing the Warrant, or not. B. 9. 69. b. 10. 92. See Tit. *Arrests*.

Where Justification in Trespass, or false Imprisonment is good, tho' the Act was wrongful, because by Order of Law, and by Virtue of Process directed to him. B. 6. 52. b. 9. 68. b. 10. 70, 76. See Tit. *False Imprisonment*, and *Commandment*.

Where Entry into another Man's Land by Order of Law is justifiable, though nothing be claimed in it. B. 7. 52. b. 8. 126, 146.

Where Taking, or Intermeddling with another Man's Goods without making Title to them is justifiable, or not. B. 4. 38. b. 8. 146.

Where beating down a Nuisance is justifiable, and how. See Tit. *Nuisance*.

Where the Lessor's Entry to see if Waste be done is justifiable. See Tit. *Entry congeable*.

Where a Man shall be a Trespasser from the Beginning by Matter of After-fact, tho' the Act at first was justifiable. See Tit. *Iex post facto*.

Where and what is Justification to enter a Warren, Chase, Park, or Forest. See Tit. *Forest*.

Where Aid of the King shall be granted to him that justifies, as the King's Bailly. See Tit. *Aid of the King*.

How a Commoner may meddle with Land, and what he may justify to do, what not. See Tit. *Common*, and *Commoner*.

What is good Justification in Trespass, or *&c.* for Heriot. See Tit. *Heriot*.

Where Justification as Servant Bailly, *&c.* to a Corporation is good, or not. See Tit. *Corporation*.

Of Justification by Licence, and what is good, what not. See Tit. *Licence*.

Of Justification in Trespass of Assault and Battery. See Tit. *Trespass*, and *Exposition*.

Of Justification of seizing a Man as his Villein, and what is good, what not. See Tit. *Villanage*.

Of Justification in Trespafs for taking of a Servant, or Woman. See Tit. *Trespafs*.

Where Waste in cutting of Trees is justifiable. See Tit. *Waste*.

Where Justification of Entry into Lands, or Taking of Goods, is good by Force of the Custom. See Tit. *Custom*, and *London*.

Where Justification in Trespafs, or false Imprisonment is good by Force of By-laws, or not. See Tit. *By-laws*.

## K.

*King.*

**H**E cannot be a Disseisor, nor Wrong-doer, and therefore shall not be impleaded in a *Præcipe quod reddat*, nor by *Q. Impedit*, but Suit shall be to him by Petition. B. 4. 45. b. 6. 51. b. 6. 26, 32. See Tit. *Prerogative*, and *Encumbent*, and *Petition*.

Where and in what Cases the King may be put out of Possession of Land, a Church, or *&c.* and have Action to redress the Wrong, or not. B. 1. 46. b. 6. 51. b. 7. 28. b. 8. 157. b. 10. 112. See Tit. *Disseisin*, *Presentment to a Church*, and *Quare Impedit*.

Where a Fine may be by the King, or to him, and how, what Manner of Fine, or not. B. 1. 27, 40. b. 7. 32. b. 9. 138. b. 11. 77. See Tit. *Fines*.

Where a Writ of Error, or Attaint lies by, or against the King upon erroneous Judgment. B. 1. 34, 42. b. 3. 1. b. 4. 89, 90. b. 6. 14. See Tit. *Attaint*, and *Error*.

Where the King's Grant of a Thing not in him, but which possibly may be, is good, because no Remedy can be had against the King by Writ of Covenant. b. 3. 29. b. 5. 2 p. 63. b. 7. 14. See Tit. *Grant of the King*.

Where the King's Writ shall abate for Want of Form, Matter, or false Latin, *&c.* or not. B. 7. 30, 31. b. 8. 26, 56. See Tit. *Writ*, and *Amendment*.

Where Pledges of Prosecution shall not be found in a Writ brought by the King, or Queen. B. 8. 61. See Tit. *Pledges*.

Where the King, or Queen, shall be amerced upon Non-suit in a Writ brought by them.

Where the King may waive the Demurrer, and take Issue, and contrary. B. 5. 2 p. 104. See Tit. *Prerogative*.

The King shall have Action of Account, where a common Person shall not, as against Executors, or *&c.* B. 10. 114. b. 11. 89, 90, 91. See Tit. *Account*.

Where double Issue shall be taken in Action where the King is Party. B. 1. 18, 32. See Tit. *Joined*.

Where the King in Action brought by him shall recover Damages, where not. B. 6. 51. b. 7. 19.

Where *Scire facias* lies for the King, and where he cannot enter, nor seize Lands, *&c.* without *Scire facias* sued. B. 2. 80. b. 3. 11. b. 4. 56, 58, 126. b. 9. 95, 96. b. 11, 12. See Tit. *Entry Congeable*, and *Scire facias*.

Where *Scire facias* shall be sued by the King against his Patentee, to repeal his Patent, or not, but he may seize, or enter without Process. B. 8. 4, 14, 22, 23. See Tit. *Repeals*, and *Scire facias*.

Where the King shall not rescize without *Scire facias*. B. 8. 169. See Tit. *Statutes*, 29 of *El. 1.* of *Escheats* there.

Where the Queen shall sue and be sued alone, without the King her Husband. B. 4. 23.

Where Consultation shall be granted upon Suit in Court-Christian for Tithes against the King's Tenant. B. 2. 44. See Tit. *Consultation*.

Where the King by Prerogative may sue in what Court be pleases. B. 2. 44. See Tit. *Prerogative*.

Where the Court shall be outed of Jurisdiction, the King being Party. B. 2. 44. See Tit. *Jurisdiction*.

Bar in *Q. Impedit* brought by the King, what is good, what not; and where

where Ufurpation, or Lapse shall bind him, or not. B. 4. 79. b. 6. 29, 49. b. 7. 28. See Tit. *Prerogative, Plenarizy, and Q. Impedit.*

Where *Quare non admittit* lies for the King. B. 5. 12. See Tit. *Quare non admittit.*

The King is a Person mixt, and has Two Capacities. B. 2. 44. b. 5. 28. b. 6. 27. b. 7. 10, 12, 32. See *Capacity, and Resignation.*

Where the King shall have Tithes, and is capable of them. B. 2. 44. See Tit. *Tithes.*

Where a Writ shall abate by the King's Act, as by making the Plaintiff Knight. B. 6. 10. b. 7. 23. See Tit. *Writ.*

Where the King's Confirmation to the Land Tenant, or Incumbent is good, or not. B. 1. 42. See Tit. *Confirmation.*

Where the King's, or a common Person's void Grant may be made good by Confirmation by Act of Parliament, or the King's Letters Patents. B. 1. 51. b. 9. 68. b. 11. 69. See Tit. *Confirmation.*

Where the King's Grant is good without the Confirmation of other Kings after. B. 8. 167. See Tit. *Confirmation.*

Where Cognizance of a Plea granted by the King, and allowed, is good, and what Allowance is sufficient. See Tit. *Grant, and Grant of the King* twice.

Where the King shall have a Corody, or not. See Tit. *Corody.*

Where and what Debts and Things in Action the King may grant and assign over, and how the Grantee shall sue for them. See Tit. *Thing in Action.*

Where Discontinuance of Tail is by the King, or not. B. 1. 44, 47, 52. See Tit. *Discontinuance.*

Where the King's Reversion, or Remainder shall be discontinued, or diverted by the Act of a Stranger. B. 1. 16. b. 2. 16, 53. b. 6. 55. b. 9. 132. See Tit. *Discontinuance, and Statutes*, 31 H. 8. c. 36. 34 H. 8. c. 20. there.

Where the King shall be said seized in the Right of his Crown by Forfeiture for Treason, or otherwise. B. 1. 28, 89. b. 4. 101. b. 7. 12. b. 9. 25.

Where the King's Entry is lawful without, and before Office found, or not. See Tit. *Entry. Congeable.*

Where Entry may be upon his Possession, and his Possession avoided without Livery sued, Petition, or *Ouster la maine.* See Tit. *Entry. Congeable, Intrusion, and Livery.*

Where the King is estopped, and how, and where he shall estop others. See Tit. *Estoppel.*

Where and what Goods and Chattels of the King the Successor shall have, not the Executors. See Tit. *Heir.*

Where Execution awarded for the King's Fine, shall be executed for the Party, at whose Suir, &c. See Tit. *Execution.*

Where a Rent, Seignior, or &c. is extinguished by the King's Seisin, or not. See Tit. *Extinguishment, and Tenure.*

Where and what Franchises and Liberties are extinguished by the King's Seisin, what not. See Tit. *Extinguishment.*

Where Fine shall be made to the King, and in, and upon what Actions, in what not. See Tit. *Fine to the King.*

Where a Grant, Feoffment, or &c. to, or by the King by Deed inrolled is good, and when the Inrollment shall be, and be sufficient, or not. See Tit. *Inrollments.*

Where a Grant, Feoffment, or &c. to, or by the King by Deed inrolled is good, and when the Inrollment shall be, and be sufficient, or not. See Tit. *Inrollments.*

Where a Grant, Gift, or &c. to, or by the King is good without Deed, or Inrollment of it. See Tit. *Inrollment.*

Where Aid of the Queen only shall be granted without Aid of the King, where she has an Estate in Lands, &c. and where of the King; and of both. See Tit. *Aid of the King.*

Where

Where a Feoffment, Grant, Lease, or &c. by the Queen alone, is good. See Tit. *Prerogative*.

Where the King may grant, &c. Lands to the Queen his Consort. See Tit. *Baron and Feme*, and *Prerogative*.

Where the King cannot command himself by his Writ, and therefore cannot be impleaded by *Præcipe quod reddat*. See Tit. *Agent*, and *Patient*.

Where Averment may be against what is certified and witnessed by the King's Writ, and not be estopped by it. See Tit. *Estoppel*.

Where the King shall have the Wardship of Lands to which the Heir has Right or Title to enter. See Tit. *Ward*.

Where the King has Election to have the Wardship of the Issue in Tail of the Donee of his Tenant in Fee, or of the Heir of his Tenant in Fee. See Tit. *Ward*, and *Prerogative*.

Where the King cannot enter into the Land of the Ward, nor seize his Body, but is put to his Action to recover them. See Tit. *Ward*.

Where the King having Wardship, may out the Termor, or Tenant by Statute-Staple, Merchant, *Elegit*, or &c. or not. See Tit. *Ward*.

Where a Man cannot be Tenant in Common with the King. See Tit. *Prerogative*.

Where the King's Tenant cannot alien without the King's Licence, and other Matters touching Licence of the King. See Tit. *Licence*.

Where and what Franchises, or Customs shall take Place against the King, and bind him, what not. See Tit. *Custom*, *Franchise*, and *Exemption*.

Where a Man may justify in Action, or maintain an Action, or make Title by Letters Patents of the King without shewing them. See Tit. *Monstrance of Deeds*.

Where the King may give Land to be held of another than himself, and where he ought to give Land to be held of another, and not of himself. See Tit. *Tenure*, and *Prerogative*, and *Reviving*.

Where the King's Capacities to

purchase Lands shall be double, natural, and politick, and where he shall take in one Capacity, and where in another. See Tit. *Capacity*.

Where and what Grants, Commissions, or &c. of the King shall determine and cease by his Death. See Tit. *Grants of the King*.

How the Time or Day shall be accounted and divided upon the King's Demise. See Tit. *Computation*, and *Day*.

Where a Man indited in the Time of one King, may be arraigned in the Time of another, and how. See Tit. *Crown*.

Where Discontinuance of Process shall be by Demise of the King, or not. See Tit. *Discontinuance of Process*, *Reattachment*, and *Resummons*.

What Pleas the Incumbent shall have in *Q. Impedit* by the King. See Tit. *Incumbent*.

Of *Non omittas* granted where the King is Party, and the whole Matter concerning it. See Tit. *Non omittas*.

Where the King shall not have Presentment to a Church without Notice given to the Patron, &c. See Tit. *Notice*.

Where the King shall have Emblements of &c. See Tit. *Emblements*, and *Forfeiture*.

Where Excommunication shall be annulled, and the Party assoiled by the King's Letters. See Tit. *Excommunication*.

Where Nuisance shall not be abated, but stand for the King's Advantage. See Tit. *Nuisance*.

Where Estoppel is by Charter, or the King's Letters Parents, and to whom, and whom not. See Tit. *Estoppel*.

Where the King may revoke his Presentment to a Church. See Tit. *Prerogative*, and *Repeal*.

Of *Quo minus*, and what Debtors of the King shall have it. See Tit. *Quo minus*.

Where and what is good Bar in *Quo warranto* by the King. See Tit. *Quo warranto*.

Where

Where the King shall not avoid his Feoffment, Grant, or &c. for Non-age. See Tit. *Age*.

Where and what Statutes bind the King, what not; of which he shall have Avail tho' not named in them. See Tit. *Statutes*.

Where and what shall be said Tenure in chief of the King, what not. See Tit. *Tenure*.

Where and under what Seals the King may command his Justices to surcease Proceeding, and grant *Superfedeas*, under what not. See Tit. *Seals*, and *Superfedeas*, and *Statutes*, 2 E. 3. 20 E. 3. there.

Where the King cannot be seized to the Use of another. See Tit. *Uses*.

Of Informations for the King, and the whole Matter concerning them. See Tit. *Informations*.

Where the King cannot hold of any other Person, but their Seigniorics shall be extinguish'd by the King's Seisin. See Tit. *Extinguishment*, *Tenure*, *Treason*, and *Prerogative*.

Where Surrender of the King's Patent is good, and how to be done. See Tit. *Surrender*.

Where a Charter of Exemption of a Juror shall be allowed, though the King be Party, or not. See Tit. *Exemption*.

Where the King cannot hold of himself. See Tit. *Prerogative*, and *Tenure*.

Where Resignation may be made to the King. See Tit. *Resignation*.

Where the King cannot take an Estate in Lands, or &c. without Matter of Record, and what is sufficient Matter of Record to intitle the King, what not. B. 2. 10, 15, 50, 53. b. 3. 29. b. 4. 54. b. 5. 2 p. 90, 109. b. 7. 12. b. 11. 66, 67. See Tit. *Inrolments*, and *Office before the Escheator*, and *Entry Congeable*.

Where the King shall have the Issues and Profits of Land after Office found, and from what Time. See Tit. *Issues and Profits*, and *Office before &c.*

Of the King's Grants, and where they shall be good, or not, and the

whole Matter concerning them. See Tit. *Grant of the King*.

Of the King's Charter of Pardon, and what Things he may pardon, what not; and the whole Matter concerning the King's Charter. See Tit. *Charter*.

Of the King's safe Conduct granted, and the Validity of it.

Knights.

Where Challenge shall be to the Array, because Knights are not returned upon the Panel. B. 6. 54. See Tit. *Challenge*.

What Sum of Money shall be paid for Relief of the Heir of a Knight, or the Heir of him that holds by Knight-Service. B. 7. 33, 34. b. 9. 124. See Tit. *Relief*.

Where the Heir shall be in Ward, notwithstanding he be knighted in the Life of his Father. B. 6. 73. b. 8. 173. See Tit. *Ward*.

Where *Præcipe quod reddat* lies of Knights-Fee. See Tit. *Demand*. B. 9. 124.

Where a Writ abates, because of being made Heir, hanging the Writ. B. 6. 10. b. 7. 27.

Where Challenge shall be to the Knights in a Writ of Right. See Tit. *Challenge*.

The antient Revenue of a Knight, and when the Name of a Vicount began. B. 7. 33. b. 9. 124.

L.

Laches.

WHERE Forfeiture is of Goods in Case of Goods stoln, for Negligence of fresh Suit, or not. B. 5. 2 p. 109, 111. b. 6. 80. See Tit. *Appeals*.

Where the King's Prerogative is that no Negligence can prejudice him, and that *Nullum tempus*, &c. no Run of Time can hurt him, and where contrary. B. 3. 78. b. 4. 23,

127. b. 5. 14, 15. b. 6. 29. b. 7. 28, 30. See Tit. *Prerogative*.

Where Strangers are barred by Negligence of Claim upon Fines levied, and what Time they have to claim, or not. B. 1. 9. b. 2. 93. b. 3. 78, 79, 80, 87, 88, 90, 91. b. 4. 106, 125. b. 5. 2 p. 124. b. 8. 100. b. 9. 105. See Tit. *Continual Claim*.

Where Negligence of Claim upon a Fine levied, bars him that claims an Estate-Tail, or not. B. 3. 87. See Tit. *Continual Claim*.

Where Negligence of Claim upon a Fine levied bars an Infant, and what Time he has to claim. B. 3. 91. b. 8. 100. See Tit. *Continual Claim*, and *Statutes*, 4 H. 7.

Where Negligence of Claim upon a Fine levied bars a Woman covert, and what Time she has to claim. B. 2. 93. b. 8. 100. b. 9. 138. b. 10. 49, 99. See Tit. *Continual Claim*, and *Statutes*, 4 H. 7. c. 24.

Where Negligence of Claim bars a Man out of the Realm, and beyond Sea, and what Time he has to claim. B. 3. 91. b. 4. 125. b. 7. 23. b. 8. 100. See Tit. *Continual Claim*.

Where Negligence of Claim upon a Fine levied, bars a Prisoner, and what Time he has to claim. B. 3. 91. b. 4. 125. b. 8. 100. See Tit. *Continual Claim*, and *Stat.* 4 H. 7. c. 24.

Where Negligence of Claim upon a Fine levied bars a Man of unsound Memory, and what Time he has to claim. B. 3. 91. b. 4. 125. b. 8. 100. See Tit. *Continual Claim*, and *Statutes*, 4 H. 7. c. 24.

Where Negligence is in an Infant for not reverting a Fine levied by him during his Nonage, and what Time he has to reverse it. B. 1. 76. b. 2. 57, 77. b. 5. 2 p. 38, 44, 45. b. 8. 58. b. 11. 69, 77. See Tit. *Error*.

Where Negligence shall not be imputed to an Infant, in permitting Warranty collateral to him, to descend during his Nonage. B. 1. 67, 140. See Tit. *Infant*.

Where Executors by their Negligence may charge themselves to an Action, to which they were not charge-

able at the Beginning. B. 8. 133. See Tit. *Executors*.

Where Executors by their Negligence may charge themselves of their own Goods. See Tit. *Executors*.

Where Negligence hinders to have the Writ by Journies Accounts. See Tit. *Fewnnes Accounts*.

Where by Negligence to enter a Man shall not be Tenant by Courtesy. See Tit. *Courtesy*.

Where Negligence loses the Advantage of Warranty for ever. See Tit. *Warranty*.

Where the Husband's Negligence of cessing Services binds the Wife for ever. See Tit. *Cessavit*.

Where the Husband's Negligence to suffer Warranty collateral to descend upon the Wife during Coverture, binds the Wife, or not. See Tit. *Warranty*.

Where Negligence hurts not a Man over Sea, but he may enter upon Descend. See Tit. *Entry Congeable*.

Where Negligence shall not be imputed to a Man over Sea, at the Time of Ourlary, but he may avoid it. See Tit. *Utlary*.

Where Negligence shall not be imputed to a Man of unsound Memory, but he may enter against his own Feoffment. See Tit. *Entry Congeable*.

Where an Alien born by his Negligence loses the Advantage of Trial by the half Tongue. See *Alien born*.

Where Aid shall not be after Issue joined, because of Negligence it was not prayed before. See Tit. *Aid*.

Where Negligence shall be imputed to an Heir, in suing Livery out of the King's Hands. See Tit. *Livery*.

Where the Patron of a Church by his Negligence shall lose his Presentation to the Church, and the Ordinary present by Lapse. See Tit. *Presentation to a Church*.

Where Negligence is in not claiming Goods waived and estrayed. See Tit. *Waif*, and *Estray*.

Where Laches is in not claiming Wreck of Sea. See Tit. *Wreck*.

Where Negligence is in not praying that the Party in Execution upon  
Capias

**Capias** for the King's Fine, should remain in Execution for the Party. See *Tit. Execution.*

Law. See *Ley.*

*Leases.*

What is a Lease for Years, what for Life, and what Speaking and Words make a Lease for Years, and Life, what not. B. 1. 155. b. 6. 26, 35.

Where and how a Lease for Years may be by Fine. B. 1. 76, 174. b. 3. 51. b. 5. 2 p. 3 to 6. b. 6. 33, 56, 63. b. 7. 73. b. 9. 138.

Where a Lease for Years to begin presently, or in the Time future (another Lease then in Being) is good, and when it shall begin, and when take Effect, where, and how not. B. 1. 155. b. 2. 35, 54, 55. b. 4. 52, 53. b. 5. 2 p. 7, 81, 94, 123, 124. b. 6. 35, 36. b. 8. 70, 73, 74, 93, 94. b. 10. 85, 106. See *Tit. Remainder, and Reversion.*

Where a Lease for Life to begin in the future Time, is not good. B. 2. 55. b. 5. 2 p. 94. b. 8. 74, 75. See *Tit. Limitation.*

Where a Lease made by a Bailly Seneschal, or other, deputed to make Leases, is good, and in whose Name to be made. B. 9. 76, 77. See *Tit. Bailly, and Commissions.*

Where Leases, Bargains and Sales, or *&c.* made of other Mens Lands by Commissioners, are good, and shall stand against the Owners, and their Heirs. B. 2. 16, 17, 25, 80. b. 9. 66, 67. See *Tit. Commissions.*

Where a Lease for Years is void in the very Fact by Death of the Lessor, or other Accident, or not; but voidable by Entry, *&c.* B. 1. 51, 134, 139, 153, 154. b. 2. 77. b. 3. 60, 65, 84. b. 4. 23, 24. b. 5. 2 p. 23, 124. b. 7. 8. See *Tit. Acceptance, and Condition, and Entry congeable.*

Where and what Lease by him who has Power reserved to him to make Leases for Life, or Years, *&c.* is good, and shall stand tho' the Les-

for's Estate be determined, and what not. B. 1. 134, 136, 139, 176. b. 6. 33. b. 8. 70. b. 9. 75, 76, 77. b. 10. 79, 85.

Where a Lease for Years is void for Incertainty in Time, *&c.* B. 1. 155. b. 3. 19. b. 6. 35.

Where a Lease for Years upon Contingency is good by Matter of After-fact, or not. B. 1. 155. b. 3. 19. b. 6. 35.

Where a Lease to begin after the Death of the Lessor is good, or not. B. 1. 155.

Where a Lease by him who has but a particular Estate, is good, and shall hold when the Lessor's Estate is determined. B. 1. 134, 139. b. 2. 5. See *Tit. Grant.* The like.

Where a Lease by an Husband and Wife shall be reputed in Law the Lease of both, or not. B. 2. 61. b. 3. 19, 21, 28. b. 5. 2 p. 26. See *Tit. Baron and Feme.*

Where a Lease by an Abbot, Prior, Parson, or Prebend, without the Consent, Chapter, or Patron, binds the Successor by Agreement and Acceptance of Rent after, or not. See *Tit. Abbot, and Prior, Acceptance, and Confirmation.*

Where a Lease by an Abbot, or Bishop, or *&c.* is good, and binds the Successor by Confirmation, or other Agreement after by the Chapter, or Covent. See *Tit. Confirmation.*

Where a Lease made by a Parson of a Church, or Prebend, is good, and binds his Successor by Confirmation of the Patron, or not. See *Tit. Confirmation.*

Where a Lease by a Dean is not good without the Confirmation of others, and of whom. See *Tit. Confirmation.*

Where a Lease by a Corporation is not good without Deed. See *Tit. Corporation.*

Where a Lease to a Corporation is good, tho' the Name of the Corporation be changed. See *Tit. Corporation.*

Where a Lease to a Body incorporate is good, tho' it have no Head at the Time, *&c.* See *Tit. Corporation, and Capacity.*

Where

Where the King's Lease to a Body, not incorporate, or a Person incapable, as a Monk, Alien born, or *&c.* is good. See Tit. *Grant of the King.*

Where two join in a Lease, it shall be said the Lease of one, and Confirmation of the other. See Tit. *Confirmation, and Exposition.*

Where an Estate for Years, and a Frank-tenement may be together in one Man. See Tit. *Estates.*

Of Exceptions in Leases. See Tit. *Exception, Property, and Woods.*

Where a Lease is good, notwithstanding Misnaming. See Tit. *Misnaming.*

Under what Seals Leases of Lands in the County Palatine are good, under what not. See Tit. *County Palatine.*

Where the Lessee for Years shall have the Wind-falls, where the Lessor. B. 11. 48. See Tit. *Woods, and Property.*

Without Impeachment of Waste, in whom is the Property of the Trees, and how to be construed. See Tit. *Exposition, Waste, and Property.*

At Will, and what Act, or Accident is a Determination of it, what not. See Tit. *Tenant at Will.*

Where a Lease is not good without reciting a former Lease, and where void for false Recital, or Misrecital in the Case of a common Person: B. 2. 33. b. 3. 9, 10.

Where the King's Lease is not good without reciting a former Lease, and where void, because of false Recital, or Misrecital, or not, *&c.* See Tit. *Grant of the King.*

Where and what Leases by him to whose Use are good by Statute 1 R. 3. See Tit. *Uses.*

Where and what Leases made by the Tenant in Tail are good, and shall bind the Issue after his Death, what not. See Tit. *Statutes, 32 H. 8. c. 28. and Acceptance.*

Where a Lease made by him who has Two Estates in him at the Time of the Lease is good, and how to be construed, and to take Effect. See Tit. *Estates, and Grants.*

Where by a Lease of One Thing,

other Things pass as appendant, appurtenant, or incident, or as implied and intended in it. See Tit. *Appendant, Grants, and Exposition.*

Where a joint Lease for Years, or Life, of Lands in several Counties, is good, and both Lands pass, and how the Rents reserved shall be reserved. See Tit. *Ecclesiastical, Rents, and Reservations.*

Where a joint Action of Debt, or Waste may be maintained upon several Leases, or not. See Tit. *Writ, and Joinder in Action, Debt, and Waste.*

Where Rent reserved upon a Lease for Years, or *&c.* shall be apportioned, or not. See Tit. *Apportionment.*

Count in Debt upon a Lease for Years, and what is good, what not. See Tit. *Debt.*

Bar in Debt upon a Lease for Years, and what is good, what not. See Tit. *Debt.*

Where Debt upon a Lease for Years lies, and is maintainable by, or against the Assignee of a Reversion, or Term, or not. See Tit. *Assignee, and Arrearages.*

Where Lessee for Years shall be received to save his Term upon Default made, Pleading, or *&c.* of the Tenant of the Frank-tenement. See Tit. *Resciseit.*

Where Lessee for Years shall falsify a Recovery. See Tit. *Falsifying Recovery.*

Where Action of Waste lies, not, there being a mean Estate for Life. See Tit. *Waste.*

Where Grantee for Years shall have a Writ of Annuity. See Tit. *Annuity.*

Where a Lease is for Years, or Life upon Condition, shall it be abridged, or enlarged, or not. See Tit. *Conditions.*

Of Leases made to defraud Debts and Credit. See Tit. *Collusion.*

Where a Man having leased for his own Life, may grant the Reversion of it, or not. See Tit. *Grants.*

Where a Lease shall be avoided for a certain Time, and after good again for the Residue of the Time. See Tit. *Condition, and Charge.*



*Leet. Ley. (Law-waging.)*

Of Reservations of Rents upon Leases for Years, or Life, and how to be construed. See Tit. *Reservation*.

Where Leases for Years, or Life, by Parsons of Churches, Vicars, or Prebends are void for Non-residence, Death, or other Accident, or but voidable. See Tit. *Parson*, and *Acceptance* above.

Form of pleading a Lease for Years. See Tit. *Pleading*.

*Leet.*

Cannot be appendant to a Church. B. 4. 37. See Tit. *Appendant*.

Where a Leet may be claimed by Prescription, and what Title made to a Leet, or View of Frank-pledge is good, what not. B. 8. 38. b. 11. 14.

Authority of a Lord, or Steward to assess Fines, &c. or do other Things. B. 7. 6, 7. b. 8. 38 to 40. b. 11. 42 to 45.

Avowry for Amercements in Court, and what is good, what not. B. 6. 77, 78. b. 8. 39, 40. b. 11. 44, 45. See Tit. *Amercements*.

Who is Judge in a Court-Leet. B. 6. 12. b. 8. 38.

Who shall be said a chief Pledge in the Court-Leet. B. 6. 77, 78.

Which are Doziniers in a Court-Leet, and the Use of them. B. 6. 77, 78.

At what Time of the Year, and what Place a Court-Leet may be held, at what not. B. 10. 76. b. 11. 44, 45. See Tit. *Statutes, Magna Charta* 35.

What Things are presentable, and inquirable in a Court-Leet, what not. B. 5. 2 p. 73, 104, 112. b. 6. 20. b. 9. 112, 113.

Where a Leet shall be extinguish'd by Unity of Possession, and Seisin of the King, or not. B. 9. 25. See Tit. *Extinguishment*.

Where Action of the Case is for distraining Men to come to Leets, where they ought not. See Tit. *Action of the Case*.

Where, how, and when Present-

ment in a Court shall be traversed, or not. See Tit. *Bar*.

Where Action of the Case lies against him who disturbs another to come to the Leet. See Tit. *Action of the Case*.

How Amercements in Court-Leets shall be offered, and what Offerment is good, what not. See Tit. *Amercements, Statutes, Magna Charta*, c. 14.

Where Law shall be waged in Debt for Amercement in the Court-Leet. See Tit. *Ley*.

*Ley. (Law-waging)*

Where Law shall not be waged in Action of the Case upon Assumpsit. B. 4. 93, 95. b. 9. 87. See Tit. *Executors*.

Where Law shall be waged in Debt, upon Arrearages of Account, or no. B. 6. 53. b. 10. 103. See Tit. *Examination*, and *Stat. 5 H. 4. c. 8*.

Where Law shall be waged in Debt upon Surplusage of Account, or not. B. 9. 87. See Tit. *Executors*.

Where Law shall be waged in Debt upon Amercement in Leet, or &c. B. 4. 95.

Where Law-waging lies for a Guest in Debt against his Host for Eating and Drinking. B. 9. 87. See Tit. *Hosteler*.

Where Law shall be waged in Debt upon retaining for Salary, or Wages, or not. B. 9. 8, 88. See Tit. *Debt*.

Where Law shall be waged in Detinue for Goods, or not. B. 4. 95. See Tit. *Detinue*.

Where Law shall be waged in Debt upon a Talley, Merchant's Book, or Papers without a Seal, or not. B. 9. 32. See Tit. *Customs*.

Where no Law shall be waged in Debt brought by the King. B. 4. 93, 95.

Where Law shall be waged in Debt by *Quo minus*, by the King's Debtor, or not. B. 4. 95. See Tit. *Quo minus*.

Where Law shall be waged upon a Contract. B. 4. 93, 95.

Where

Law. See Tit. *Possession.*

Where in a Plea real Law of Non-Summons shall be waged at the Grand, or petty Cape. B. 9. 31. See Tit. *Saving Default.*

Where and what Day the Party who wages Law, and has Day to do it, shall bring in his Hands, and how many. B. 9. 31, 32.

Where Non-Summons in a Plea of Land shall be tried by the Country, and not by Law-waging. B. 9. 31, 32.

Where a Man shall have a second Writ by Journies Accounts upon them abated, by waging Law of Non-Summons. See Tit. *Journies Accounts.*

Where waging of Law lies not for a Body incorporate. B. 9. 32.

Law. See Tit. *Possession.*

Where Possession and Seisin in Law shall be adjudged in a Man upon a Condition broken, without Re-entry indeed, or not. B. 1. 85, 94, 97, 174. b. 2. 53, 54. b. 3. 65, 84, 85. b. 4. 53. b. 8. 44, 95. See Tit. *Condition*, and *Entry congeable.*

Where Possession and Seisin in Law of Land-rents, Advowson, or &c. shall make a Man Tenant by Courtesy, or no. B. 1. 97, 98. b. 8. 35. See Tit. *Tenant by Courtesy.*

Where Seisin and Possession in Law of Land, Rent, or &c. in the Husband shall make the Wife to be indowed, and what is sufficient Seisin and Possession, what not. B. 6. 34, 79. b. 7. 38. b. 8. 22, 27, 35. See Tit. *Dower.*

Where Seisin and Possession in Law is sufficient to make the Sister Heir, or &c. B. 1. 121. b. 3. 2, 40, 42. b. 8. 35. See Tit. *Discents.*

Where Possession and Seisin in Law is by the Lord's Claim, and sufficient to gain the Lands, or Goods of his Villain, or not. See Tit. *Continual Claim.*

Where Possession and Seisin in Law of the Bastard is sufficient to make his Issue Heir in Prejudice of the Mulier, or not. See Tit. *Bastardy.*

Where a Release to him that has only Possession and Seisin in Law is good, or not. See Tit. *Releases.*

Where Tenant in Law, though not in Deed of a Frank-tenement at the Time of pleading shall have Plea in Bar to the Writ, &c. See Tit. *Pleas.*

Where a Man shall be adjudged in Possession and Seisin presently upon Recovery by the Law, without Seisin delivered by the Sheriff, or other Execution in Fact. See Tit. *Recovery.*

Where an Action of Trespas shall be upon Possession and Seisin in Law without Regress, and the mean Trespas be punished. See Tit. *Trespas.*

Where the Termor's Possession shall be adjudged Seisin in Law to him in Reversion, to have an Assize upon Outing of his Termor. See Tit. *Assize.*

Where and what are Conditions in Law, and how to be performed, and what Act is a Breach of them. See Tit. *Conditions.*

Where a Covenant, or Condition upon an Obligation, or &c. shall be discharged by Act of Law. See Tit. *Conditions.*

Who shall be said an Assignee in Law. See Tit. *Assignee.*

Where and what shall be said a Condition against the Law. See Tit. *Conditions.*

How Matters in Law shall be tried. See Tit. *Enquests.*

Where a Man, or Woman in Execution shall be discharged of it by Act of Law. See Tit. *Execution.*

Of Licences in Deed, and Law, and how they differ. See Tit. *Licence*, and *Ex post facto.*

Where Rent, Seignior, or &c. shall be extinguished by Unity of Possession, which comes by Act of Law, or not; but shall be apportioned. See Tit. *Apportionment*, and *Extinguishment.*

Where a Formedon lies upon a Gift in Law, without a Gift in Deed. See Tit. *Formedon.*

Where and when a Church is void in Deed, when in Law. See Tit. *Quare Impedit.*

Where a joint Reservation of Rents, or &c. shall become several Reservations by Act of Law. See Tit. *Rents*, and *Reservations.*

*Libel and Libelling. Licence, Limits and Limitations.*

Where the King shall be presently adjudged in Possession and Seisin of Land, or &c. in Law, and not till Entry, or Seizing. See Tit. *Office before the Escheator.*

Where Surrender is not good by him that has Possession in Law. See Tit. *Surrender.*

*Libel and Libelling.*

In Writing, how, and the Punishment. B. 5. 2 p. 124, 125. b. 9. 59.

By Words, how, and the Punishment. B. 5. 2 p. 124, 125. b. 9. 59.

What shall be said publishing of a Libel, what not. B. 9. 59.

How he that finds a Libel, ought to demean himself. B. 5. 2 p. 125.

Where the Composer of a Libel shall be punished, though the Party against whom, &c. be dead. B. 5. 2 p. 125.

Where Action upon the Statute lies against a Judge spiritual, who will not deliver a Libel. B. 10. 75. See Tit. *Statutes*, 2 H. 5. c. 3. there.

*Licence.*

Where Licence by Word is good, and without shewing a Deed, may be pleaded, or not. B. 6. 38. b. 9. 99 to 102. b. 11. 48. See Tit. *Corporation*, and *Monstrance of Deeds.*

To hunt, to what Persons extended, and how construed. B. 9. 40.

Where Licence is a good Plea in a Writ of Trespass. B. 8. 146. b. 9. 49.

Licence in Deed, and in Law, and the Difference betwixt them. B. 8. 146, 147.

Where a Condition that he shall non alien without the Licence of the Lessor, is good, and what Alienation is a Breach of the Condition, what not. B. 3. 38, 64. b. 4. 119, 120.

Where Licence is requisite for the King's Tenant to alien, and what Licence is good, what not. B. 1. 44. b. 2. 80, 81. b. 4. 55. b. 6. 28. b. 9. 106. b. 10. 25.

Where the King may seize, &c. upon Alienation of his Tenant, nor-

withstanding he has the King's Licence, or not. B. 1. 44. b. 2. 80. b. 6. 28. b. 8. 85.

Where the King's Tenant may charge the Land with Rent without the King's Licence. B. 8. 85.

Where the King's Tenant may release without the King's Licence. B. 3. 31.

Where Licence is requisite from the King to his Tenant for Alienation in Mortmain, and of whom; and what is sufficient, what not. B. 3. 31. b. 10. 25, 26, 31, 110.

Where Licence shall be traversed, and Issue taken upon it. B. 9. 98.

Where the King's Licence is requisite to make a Park, Chase, &c. B. 11. 86, 87. See Tit. *Forests.*

Of the King to go to Election of a Bishop, or &c. B. 5. 18.

Of the King to marry his Nief. B. 4. 55.

Of the King to go over Sea, and under what Seal it is sufficient, under what not. B. 2. 17. See Tit. *Contempt.*

Where Licence is requisite for a foreign Prince to come into England. B. 7. 21. *Calvin's Case.*

What Estate the King shall have in Lands after Seizing for Alienation without Licence. B. 2. 80.

Where the King's Licence is requisite to his Widow to marry, and where she cannot marry with it. B. 4. 55. See Tit. *Fine to the King.*

Where the King's Licence is requisite for the Foundation of a Chantry, or &c. See Tit. *Grant of the King.*

Where the King's Licence is requisite to make an Appropriation. See Tit. *Appropriation.*

Of Dispensations and Licences in Causes Ecclesiastical, and what are good. See Tit. *Dispensations.*

From what Time the King shall have the Issues and Profits of the Lands of his Tenant, who aliens without Licence. See Tit. *Issues of Lands.*

*Limits and Limitations.*

The Statutes of Limitations, and what was the Time of Limitation for using

using a Writ in ancient Time, and what at this Day. *Mert. c. 8. W. 1. 38. West. 2. 26. 32 H. 8. c. 2. B. 4. 11, 20. b. 7. 40. b. 8. 75, 126. b. 9. 36. b. 11. 68.*

Of the Limits and Bounds of the Court of Marshalsea. *B. 4. 46, 47. b. 6. 20, 21. b. 7. 15. b. 10. 68 to 78. See Tit. Authority, and Marshalsea.*

Where a Devise upon Condition is good, and Words shall be construed rather in the Sense of a Limitation, than of a Condition. *See Tit. Devise.*

Where Copyholds shall be construed to be within the Statutes of Limitations. *See Tit. Copyhold.*

Where a Remainder demanding upon a Condition, is not good; but upon a Limitation, contrary. *See Tit. Remainder.*

Where an Estate in Fee may be limited upon another Estate in Fee, or not. *See Tit. Estates.*

What Estate shall be by Grant generally without limiting any Estate. *See Tit. Estates.*

Within what Limits the Court-Baron may be held. *See Tit. Manor.*

Within what Limits the Court-Leer may be held. *See Tit. Lect.*

Where no Limitation of Time binds the King, and *Nullum tempus occurrit*, or contrary. *See Tit. Prerogative.*

Of Limitation of Inrollment of Deeds upon Bargains, and Sales. *See Tit. Inrollments, and Computation.*

How, and within what Time a Condition shall be performed where no Time is limited. *See Tit. Condition.*

Where an Heir shall take an Estate by Purchase, and not by Descent, and upon what Manner of Limitation. *See Tit. Heir.*

Of Limitations (during Life) or during the Lives of two, and of the longer Liver, and when the Estate shall determine. *See Tit. Exposition.*

Of Limitation of Uses. *See Tit. Uses.*

Of Limitation of Estates Tail. *See Tit. Tails.*

Of Remainders. *See Tit. Remainders,*

Livery and Primer seisin.

Where a *Diem clausit extremum* shall issue one after another, or not; but another Process, and what. *B. 7. 45. b. 8. 168.*

The Manner and Form of suing Livery, and what Order is to be observed in it. *B. 8. 172.*

How, and what Homage shall be made by the Heir upon Livery sued, and where, and in what Manner it shall be respited. *B. 8. 172.*

Where the Heir of Lands held by Knight-Service shall have Livery with Issues. *B. 8. 172.*

Where Interpleading shall be betwixt two, where they are to have *Ouster la main* of the King. *B. 7. 45. See Tit. Stat. 2 E. 6. 8.*

Where Livery shall be sued by the Heir upon a Reversion descended to him, and when. *B. 2. 93. b. 6. 3. b. 9. 126, 129, 132.*

What Value shall be paid to the King upon Livery, or Primer Seisin. *B. 8. 172.*

Where Monstrance of Right, or *Ouster la main* is, and where it shall be with Issues. *B. 1. 158, 159, 173. b. 2. 50, 53. b. 4. 55, 57. b. 7. 16. b. 9. 99, 103.*

Where and to what Time the King shall have the Issues and Profits of the Land of his Tenant held in *Capite*. *B. 8. 170, 172, 173.*

Where upon Livery sued by the Heir, he shall have Things appendant and incident by Restitution of the Principal, to which, &c. without Mention of them. *See Tit. Grant of the King.*

Where the Heir shall not have Traverse to an Office, nor any other Stranger, unless another Office be found for him. *See Tit. Office before the &c.*

Where a Man shall sue Livery as well of Lands held of other Lords, as of Lands held of the King in chief. *See Tit. Prerogative.*

Where Entry is lawful upon the King's Possession, and shall avoid it without Livery, Petition, *Ouster la main*, or Monfrance of Right. See Tit. *Entry congeable*.

*Livery and Seisin.* See Tit. *Feoffments*.

*London.*

Mayor of *London* Escheator of the City of *London*. B. 4. 54.

Custom of *London* to devise Land, and devise in Mortmain, and who may devise in Mortmain, who not. B. 4. 54, 113. b. 8. 129.

Custom of *London* to arrest a Man without Process. B. 9. 62, 63, 67.

Custom of *London* of foreign Attachment. B. 10. 103.

Custom of *London* that every Day there except *Sunday* is Market open. B. 5. 2 p. 83. b. 8. 127. See Tit. *Fairs*, and *Markets*.

Custom of *London*, that if a Villein abide there a Year and Day, no Process of Law shall fetch him out, but he shall be enfranchised. B. 5. 2 p. 107.

Custom of *London*, that no Waging of Law shall be against a Merchant's Book. B. 9. 32.

Custom of *London*, that the Mayor and Aldermen there shall have the Wardship of Orphans, and Disposition of their Lands and Goods. B. 4. 64, 65. b. 5. 2 p. 73. See Tit. *Ward*.

Custom of *London*, that a Recovery there against an Husband and Wife of the Wife's Lands, shall bind her as strongly as a Fine at the Common Law. B. 2. 57.

Custom of *London*, to make Guilds and Fraternities. B. 8. 122, 125. See Tit. *Customs*, and *Prescription*.

Custom of *London*, that the Mayor there upon Execution and Examination of the Parties, if he find the Plaintiff satisfied, may discharge the Defendant. B. 8. 126. See Tit. *Custom*.

Custom of *London*, that if the Debtor be fugitive, he may be arrested before the Day of Punishment, to find better Surety. B. 8. 126.

Custom of *London*, that upon Information that any Man is in Avowtry with a Woman, or keeps a Whore in his Chamber, that the Beadle may take them, and carry them to Prison, &c. B. 8. 126.

Custom and Franchise of *London*, and that they shall not be impanel'd upon Inquest out of the City, nor join with Foreigners. B. 7. 2.

Custom of *London*, that an Action of Debt lies against his Executors upon simple Contract. B. 5. 2 p. 82, 83. b. 8. 126.

Custom of *London*, to maintain an Action for scandalous Words, and Words of Defamation. B. 4. 18.

Where and what Customs of *London* are good against Statutes; where and what not. See Tit. *Franchises*, and *Prescription*.

Where Customs of *London* shall be gone and extinguish'd by the King's Seisin. See Tit. *Extinguishment*.

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*Lord and Tenant.*

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Where the Lord paramount shall make Avowry upon the Discontinuer in Tail, and where the Donor may make Avowry upon him, or upon the Issue, notwithstanding the Discontinuance. B. 3. 30. See Tit. *Avowry*.

Where the Heir in Tail shall be in Ward, and where, and to whom, notwithstanding the Discontinuance made by his Ancestors. B. 2. 92, 93. b. 8. 166. b. 9. 126. See Tit. *Ward*.

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Where the Lord shall have Escheat of his Tenant. See Tit. *Escheat*.

Where the Lord shall have the Wardship of his Tenant's Heir. See Tit. *Ward*.

Of the Lord in ancient Demean. See Tit. *Antient Demean*.

Of the Lord of a Copyhold. See Tit. *Copyhold*.

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Of Avowry upon Tenants by the Lord. See Tit. *Avowry*.

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Of Lord and Villein. See Tit. *Villeinage*.

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the Lord, and where, and how he may do it. See Tit. *Affize*.

Where the Lord shall prescribe to have Common, &c. for him, and his Tenants, and for whom. See Tit. *Prescription*, and *Common*.

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Where Leafes made by a Bailly, Steward, or &c. is good, and binds the Lord. See Tit. *Leafes*, and *Authority*, and *Commissions*.

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## M.

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Where Tithes may be claimed as appendant to a Manor. B. 2. 45. See Tit. *Tithes*, and *Appendant*.

Where by Grant of all the demean Lands of a Manor, the Customary, and Copyhold Lands shall not pass. B. 1. 46. b. 5. 2 p. 5, 6. See Tit. *Exposition*, and *Copyhold*.

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Where Amercement is of Suitors in a Court-Baron. See Tit. *Amercements*, and *Suitors*.

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*Mefne. Melius inquirendum. Mifnaming.*

What Grant of the Office of the Marshal of the Marshalsea is good, and of what Estate, and what not. See Tit. *Officer*.

*Mefne.*

Writ of Mean, and what is sufficient Matter to abate it. B. 8. 86. b. 9. 124.

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Where a Writ of Mean lies, and shall be maintained upon a Confirmation. B. 9. 140.

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Judgment in a Writ of Mean, and where, and upon what Plea Judgment shall be to recover the Acquittal presently, &c. and where to recover Damages. B. 8. 134. b. 9. 21, 110, 111.

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Where Age shall be granted in a Writ of Mean, and the Plea demur

for Nonage of the Tenant, or Demandant. B. 6. 3. b. 9. 85. See Tit. *Age*.

Where Judgment of Forejudger is in a Writ of Mean, and against whom, and whom not. B. 9. 73. See Tit. *Stat. West. 2. c. 9*.

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Joining in Aid of the Mean to the Tenant, and where freely without Process. See Tit. *Joining in Aid*.

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*Melius inquirendum.* See Tit. *Office before the Escheator*.

*Mifnaming.*

Where a Writ shall abate by Mifnaming the Town, or &c. B. 6. 10, 64. b. 7. 27. b. 8. 159.

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Where Mifnaming of a Stranger, or his Companion, or Wife, and contrary, shall be pleaded, or not. B. 6. 64.

Where a Feoffment, tho' one or other of the Parties be mifnamed in their proper Name, or Surname, or in the Thing which passes. B. 1. 46. b. 2. 33, 61, 67. b. 3. 10. b. 4. 35, 48, 50. b. 5. 2 p. 124. b. 6. 64, 65 and 36. b. 11. 21. See Tit. *Deeds*, and *Feoffments*.

Where an Obligation is void by Mifnaming in the Name of Baptism, Surname, or &c. or not. B. 10. 122 to 125. b. 11. 21.

Where a Release, or Confirmation is void by Mifnaming in the Name of the Parties, or the Thing, or not; and how to be pleaded. B. 2. 34. b. 10. 122 to 126.

Where a Lease for Years is void by mifnaming the Person of the Lessor, or Lessee, or of the Thing demised, or not. B. 2. 34. b. 3. 9. b. 10. 122 to 126.

Where

*Moderata misericordia. Moieties. Monopolies. Monstrance of Right, Deeds, Fines, &c.*

Where a Fine is void for Incertainty, and misnaming the one, or other, or of the Thing of which it is levied, or not. B. 8. 155. See Tit. *Fines*.

Where the King's Grant is void for Misnaming, or false, or Misrecital, or &c. or not. B. 1. 46. b. 2. 33, 34. b. 3. 10, 73, 75. b. 4. 35. b. 6. 55. See Tit. *Grant of the King*.

Where the Writ upon Journies Accounts shall not be had upon a Writ abated for Misnaming. See Tit. *Journies Accounts*.

Replication to Misnaming pleaded, and what is good. See Tit. *Replication*, and *Maintenance of Writs*.

Where the Grant of a common Person is void by Misrecital, or false Recital. See Tit. *Grants*.

How the Demandant shall maintain his Writ against Misnaming of the Person, Town, or &c. See Tit. *Maintenance of Writ*.

Trial of Misnaming, or of any Thing that is Parcel of the Name; and where the Venew shall be when the Name, Surname, or Addition is put in Issue. See Tit. *Trial*.

*Moderata misericordia.*

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*Moieties.* See Tit. *Part and Parcel*.

*Monopolies.*

Definition of Monopoly. B. 11. 86.

Where the King's Grant of a Monopoly is good, or not; and what is such Monopoly as he cannot grant. B. 8. 125, 126 to 130. b. 10. 113. b. 11. 84 to 89. See Tit. *Grant of the King*.

Where Prescription to have a Monopoly is good, or not. B. 8. 125. See Tit. *By-laws*, and *Common-weal*.

Where an Obligation to have a Monopoly, is not good. B. 8. 125. b. 11. 53. See Tit. *Condition*.

*Monstrance of Right.*

Where and for whom it lies, or not. B. 1. 50, 53, 158, 159, 173. b. 2. 50, 53. b. 4. 54, 55, 58. b. 7. 17, 19.

Where a Man may enter upon the King's Possession without Monstrance of Right, or other Process or Suit made. See Tit. *Entry congeable, Disseisin, Intrusion*, and *Livery*.

*Monstrance of Deeds, Fines, and Records.*

Where a Man shall not have the Deed of a Thing merely in Grant, because it is executed, and vested. B. 6. 38.

Where he that prays to be received shall shew a Deed of Remainder, or Reversion, by which he claims to be received, and when he shall shew it, or not. B. 10. 93, 94.

Where a Man shall make Title, or maintain an Action, or justify by the King's Patent, without shewing the King's Letters Patents, be he Party, Privy, or a Stranger to them, or not. B. 6. 74. b. 10. 88, 82, 93.

Where Executors shall shew the Testament, and when the Defendant shall have the Hearing of it, or &c. and when not. B. 9. 38. See Tit. *Testament*.

Where a Man may be compelled to shew a Record, what is a sufficient Record, and under what Seal, and where the Tenor of a Record is sufficient. B. 8. 8. See Tit. *Exemplification*.

Where Payment may be pleaded without shewing a Deed, or Acquittance witnessing it. B. 3. 65. b. 5. 2 p. 43. See Tit. *Debt*.

Where a Man may plead in Bar in Debt upon an Obligation, or &c. Matter in Deed, without shewing a Deed of it, and what Matter, where, and what

what not. B. 1. 3. b. 3. 83. b. 4. 84. See Tit. *Debt*, and *Audita querela*.

Where a Man may plead a Defeasance, or other Matter in Bar, by Force of a Deed, without shewing it, or not. B. 5. 2 p. 75. b. 10. 106.

Where a Lease made by an Husband and Wife may be pleaded without shewing the Deed, and where themselves may plead it without shewing the Deed, or not. B. 2. 61, 75. b. 3. 21. See Tit. *Agreement*, and *Affent*.

Where Assent of a Man or Woman may be pleaded without shewing a Deed of it. B. 2. 6, 57. b. 3. 21. See Tit. *Affent*.

Where a Deed made to a Stranger shall be shewn, because the Title is conveyed by it; where it belongs not to the Shower, and where it does, or not. B. 6. 38. b. 9. 23. b. 10. 92, 93.

Where a Stranger to a Deed shall take Advantage of a Deed shewn to the Court by him that is Party, or privy to it. B. 5. 2 p. 74, 76. b. 10. 92.

Where a Man shall avow, or justify as Servant, or by Force of a Warrant, or Command, without shewing the Deed. B. 10. 92.

Where a Condition may be pleaded, or a Man have Avail of it, where found by the Inquest without shewing it, be it of a Chattel, or of a Frankrenement, or not. B. 4. 51. B. 5. 2 p. 40, 74, 76. b. 10. 92, 93. See Tit. *Verdict*, and *Debt*.

Where the Tenant shall not vouch, or rebut by Warranty without shewing a Deed, and where contrary. B. 6. 5.

Where the Assignee shall neither vouch, nor rebut by Warranty without shewing the Deed of Assignment, or contrary. B. 3. 63. b. 4. 121. See Tit. *Assignee*.

Where the Assignee shall have a Writ of Covenant without shewing the Deed of Assignment. B. 3. 63. See Tit. *Assignee*, and *Covenant*.

Where a Release may be pleaded

without shewing the Deed. B. 5. 2 p. 75. b. 6. 38. b. 10. 93.

Where a Licence may be pleaded without shewing the Deed. B. 6. 38. b. 9. 99, 100, 101, 102. b. 11. 48. See Tit. *Licence*.

Where the King's Letters Patents inrolled may be pleaded without shewing them. B. 5. 2 p. 74. See Tit. *Exemplification*.

Where Inrollment of a Deed, or Deed inrolled cannot be pleaded without shewing the Deed it self. B. 5. 2 p. 52, 53, 74. See Tit. *Exemplification*.

Where he that is in by Act of Law, shall not shew the Deed. B. 5. 2 p. 75.

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Where he that pleads a Record must shew it presently, or not. B. 6. 53.

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Where a Man shall maintain a Writ of Covenant, without shewing the Deed. See Tit. *Covenant*.

Where a Deputy ought to shew a Deed of his Deputation. See Tit. *Deputy*.

Where Exchange is good without Deed, and where a Deed of Exchange must be shewn. See Tit. *Exchange*.

Where Licence to alien in Mortmain, or to the Tenant to alien must be shewn. See Tit. *Licence*.

Where an Arrest is lawful by Force of a Warrant, *Ec.* without shewing it. See Tit. *False Imprisonment*, and *Arrest*.

Where Prescription by a *que estate* is good, where not; without shewing the Deed of Assignment. See Tit. *Prescription*.

*Mortdancestor.*

Form of the Writ of Mortdancestor brought by an Infant. B. 7. 40. b. 8. 126.

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*Mortgage. Mortmain. Ne injuste vexes.*

What Dying seized in Fee is sufficient to maintain a Writ of Mortdancer, what not. B. 2. 61. b. 8. 101.

Bar in Mortdancer, and what is good, what not. B. 4. 43. b. 6. 7, 8. b. 9. 119. See Tit. *Bar*.

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Where in Mortdancer a Man shall plead in Bar, without traversing the Dying seized of the Ancestor. B. 4. 43. b. 6. 7, 8.

*Mortgage.*

How the Condition upon Mortgage to pay Monies by him, his Heirs, or Executors, or to him, his Heirs, or Executors, shall be performed, and to whom, and by whom the Monies shall be paid. B. 2. 50, 52. b. 5. 2 p. 96, 97, 114. b. 8. 95. See Tit. *Condition.*

Where the King, or other Lord shall have the Wardship of the Heir of the Mortgagor, and of his Lands, where he enters for the Condition, &c. or not. See Tit. *Ward.*

Where the Lord shall retain the Land of his Tenant as a Mortgage, till he be satisfied the Value of the Marriage. See Tit. *Action upon the Statute.*

*Mortmain.*

Where a Gift of Lands to Men aggregate, and not incorporate, is Mortmain, or not. B. 1. 23, 24, 25. b. 11. 71.

Where Mortmain is by Purchase of an Advowson of a Church. B. 7. 26. See Tit. *Appropriation.*

Where Extinguishment of Rents,

Services, Seignior, or &c. in Possession of a Body incorporate is Mortmain, or not. B. 3. 31. b. 7. 39.

Where a Feoffment to the Use of a Body incorporate shall be said Mortmain. B. 1. 23, 24, 123.

Where Lands given to do a spiritual Thing, or Work, as to find Priests, Chaplains, or &c. to sing Masses, or Dirges, is Mortmain, or not. B. 1. 124. b. 4. 105.

Where Disseisin, or Usurpation, or Intrusion in Lands by the Patron of a Church, or &c. who have two Capacities, is Mortmain, or not. B. 7. 26.

Where Lands given to a Body incorporate, to maintain a Grammar-School, or &c. other Works of Religion, and charitable Uses, shall not be Mortmain. B. 1. 23, 24, 25. b. 11. 70, 71.

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Where Lands may be devised in Mortmain by Custom of Cities, or Boroughs. See Tit. *London, Custom, and Devise.*

Where Licence of the King and other Lords is requisite to alien in Mortmain, and what Licence is good and sufficient, what not. See Tit. *Licence.*

Where the King's Grant to make a Foundation of a Chantry, or &c. and amortise Lands is good, and by what Words. See Tit. *Grant.*

Where the King may enter and seize Land for Alienation in Mortmain, what Remedy for him that has Right. See Tit. *Livery, and Monstrance of Right.*

N.

*Ne injuste vexes.*

WHERE the Writ of *Ne injuste vexes* lies, by whom, and against whom; where, and against whom not. B. 4. 11. b. 5. 2 p. 100. b. 8. 65; b. 9. 33. See Tit. *Stat. Mag. Char. c. 10.*

Bar in *Ne injuste vexes*, and what is good, what not. B. 5. 2 p. 100.

*Nisi prius.*

Where *Nisi prius* shall be granted in Appeals, or other Matters of the Crown. B. 4. 43.

Where and when a *Nisi prius*, or *Habeas Corpus*, or *Tales* shall be granted, and where a *Nisi prius* with Distress. B. 1. 4.

Where after Verdict a new *Nisi prius* shall be granted, or not, but a *Venire facias*, or *Habeas Corpora*. B. 8. 66. See Tit. *Enquest.*

Where an Affize shall be turned into an Inquest, and taken in Nature of an Inquest by *Nisi prius*. B. 8. 57. See Tit. *Affize.*

Justices of *Nisi prius*, and their Authority. B. 4. 43. b. 10. 103. See Tit. *Justices.*

*Non-ability.* See Tit. *Disability.*

*Non est factum.*

Where upon special Matter pleaded in Debt upon an Obligation, the Conclusion of the Plea shall be, and so not his Deed. B. 2. 4, 9. b. 3. 26, 59. b. 5. 2 p. 23, 119. b. 9. 137. See Tit. *Debt.*

What shall be good Evidence in Debt upon an Obligation upon Issue Not his Deed, what not. B. 11. 27. See Tit. *Evidence.*

*Nofine.*

*Nomen*, as much as *Rei notamen*. B. 11. 20.

*Agnoscendo*, because it makes known. B. 6. 65. b. 11. 21.

Error of the Name is nothing when the Person is certain. B. 6. 65.

No Matter for the proper Name, while there is no Error in the Substance, because Names change, but Things not. B. 6. 65, 66.

Of Dignity, and where it is lost by Intermarriage, or not. B. 4. 117, 118. b. 6. 53, 54. b. 7. 6, 15. 33, 34.

Of Dignity, and where it shall be

inherited by Descent of Right, and where given of Courtesy. B. 6. 53. b. 8. 16, 17.

Knight, a Name of Dignity. B. 6. 53. b. 7. 27.

Duke, Earl, and Countess, Names of Dignity. B. 4. 118. b. 6. 53, 54. b. 7. 15, 34. b. 9. 97, 117.

What Name is a Name of Dignity, and where a Man or Woman must be named by such Names, or not. B. 4. 118. b. 6. 53, 54. b. 7. 15, 34. b. 8. 16, 17. b. 9. 117. b. 10. 29. See Tit. *Writ.*

Of Dignity intailed within the Statute of *W. 2. c. 1.* b. 7. 33. b. 8. 17. See Stat. *W. 2. c. 1.*

Where a Writ shall be purchased by Journeys Accounts, where the first abated by accepting the Name of Dignity of a Knight. B. 6. 10. See Tit. *Journies Accounts.*

Where a Name of Dignity is lost by Contempt, &c. B. 11. 1. See Tit. *Corruption of Blood.*

Where a Name of Honour, or Dignity of a Man of *France*, *Scotland*, or &c. shall be suspended and lost if he come into *England*, or not. B. 7. 15, 16. See Tit. *Ireland.*

Where a Grant, Feoffment, or &c. is good without the Name of Baptism, Surname, or Name of the Corporation. B. 1. 101. b. 2. 51. See Tit. *Capacity.*

Where a Devise to a Man or Woman is good without the proper Name. B. 7. 9. b. 10. 57. See Tit. *Capacity*, and *Devise*, and *Infant.*

The Dignity of a Duke, or Earl cannot be granted for Years. B. 9. 97, 98.

Where a Grant of Fee-simple expectant by the Name of a Reversion is void. B. 2. 61. b. 5. 2 p. 124. See Tit. *Grants*, and *Remainder.*

What Construction shall be made of a Grant, or &c. by the Name of *W. S.* where there are two of the Name. B. 5. 2 p. 68. b. 8. 155. See Tit. *Remainder.*

Where and what is a sufficient Name of Purchase, what not. See Tit. *Capacity.*

Where

*Nosme. Next of Blood. Non omittas. Non-suit.*

Where Grants, Leases, or &c. made by a Body incorporate, shall remain and stand, though their Name be changed. See Tit. *Corporation*, and *Franchises*.

By what Name a Body corporate shall be named in a Writ, brought by, or against them. See Tit. *Writ*, and *Corporation*.

Where in Writ the Plaintiff, or Defendant must be named by their Name of Baptism. See Tit. *Writ*, and *Corporation*.

Where in a Writ the Plaintiff, or Defendant must be named by their Surname, or not. See Tit. *Writ*, and *Corporation*.

Where a Man shall sue a Master of an Hospital, or such like, by the Name and Surname, without the Name of any Church, or Corporation. See Tit. *Writ*.

Where in a Writ the Plaintiff ought to name the Defendant elder, or younger. See Tit. *Writ*.

Where a Writ shall abate by Change of the Name of Dignity, as Creation of a Knight, Bishop, or other. See Tit. *Writ*.

Form of the Writ against the Guardian, and where it shall be general, without naming him Guardian. See Tit. *Writ*.

Where in Affize of Rents, or &c. all the Land-Tenants ought to be named. See Tit. *Affize*.

Where an Infant in his Mother's Belly shall take an Estate by such a Name. See Tit. *Infant*.

Where Grant, Feoffment, Release, Obligation, or &c. shall be void for Misnaming. See Tit. *Misnaming*, and *Obligation*.

Where a Feoffment of Acres by Name of a Manor, and contrary, is good, and by Feoffment of a Thing of one Name, another Thing of another Name passes, or not. See Tit. *Feoffment*, *Deeds*, and *Misnaming*.

Where a Feoffment, Grant, Release, Confirmation, or &c. may be pleaded of a Thing demanded by a Name comprised in the Deed, though it be otherwise named in Truth. See Tit.

*Feoffment, Deeds, and Misnaming.*

Trial of a Name of Dignity, as Baron, Duke, or &c. and where they shall be tried by Record, and where by the Country. See Tit. *Trial*.

Where a Man shall take an Estate in Lands, or &c. by the Name which he has gained by Reputation. See Tit. *Reputation*.

Where the Return of the Sheriff, or other Minister of the King is good, notwithstanding Omission of their Names in the Indorsement, or not. See Tit. *Return of the Sheriff*.

Where Action of the Case lies against him that sues, or does another Thing in the Name of another without Warranty. See Tit. *Action of the Case*.

Where a Remainder granted by the Name of a Reversion, and contrary, passes, or not. See Tit. *Remainder*.

Where Leases made by Commissioners, or other Deputies to make Leases, are good, and in what Name such Leases shall be made. See Tit. *Leases*, and *Commissions*.

*Next of Blood.* See Tit. *Consanguinity*.

*Non omittas.*

Where it shall be awarded upon *Venire facias*, or &c. B. 18. 33. b. 5. 2 p. 92.

*Non-suit.*

In Attaint, and where it is peremptory, and what Judgment shall ensue upon it. B. 6. 25. b. 3. 60.

Where Non-suit of one in Attaint is the Non-suit of all. B. 6. 25. b. 8. 61. See Tit. *Attaint*.

In *Audita querela*, and where the Non-suit of one is the Non-suit of all, or not. B. 6. 25. b. 8. See Tit. *Audita querela*.

In a Writ of Error, and where the Non-suit of one Plaintiff is the Non-suit of all, or not. B. 6. 25. b. 8. 61. See Tit. *Error*, and *Severance*.

*Non-tenure. Nomine pœne. Notice.*

In Account, and where the Plaintiff in Account shall be non-suited after Judgment of Account, and where not. B. 11. 38. See Tit. *Account*.

In *Q. Impedit*, and where preemp-tory, and the Writ to the Bishop to be awarded. B. 7. 27. See Tit. *Writ to the Bishop*.

Where the Plaintiff, or Demandant shall be non-suited the same Term, or Day in which he once appeared. B. 8. 62. See Tit. *Retraxit*, and *Computation*.

Where the Plaintiff shall be non-suited after Judgment and Process determined. B. 11. 38. See Tit. *Account*.

Where Non-suit of one Executor is the Non-suit of all, or not. B. 8. 61. See Tit. *Executors*, and *Severance*.

Where Estoppel is by Non-suit in Action, or not. B. 6. 7, 8. See Tit. *Estoppel*.

Form of Entry of Non-suit, and upon what Roll the Entry shall be. B. 8. 58. See Tit. *Entry of Pleas*.

*Non-tenure.*

Where a Man shall have a Writ by Journies Accounts, after the first Writ abated for Non-tenure. B. 6. 10. See Tit. *Journies Accounts*.

A good Plea in *Quid juris clamat*. B. 2. 68. See Tit. *Attornment*.

*Nomine pœne.*

Not apportionable. B. 8. 79. See Tit. *Apportionment*.

Where a Demand ought to be upon a Condition to forfeit a Sum of Money in the Name of a Penalty. See Tit. *Demand*.

*Notice.*

Notice is from *Nascendo*, knowing. B. 6. 29.

Notice ought not to halt. B. 6. 29.

Double, one in Deed, another in Law. B. 2. 68. b. 6. 69.

Where Notice ought to be given to the Patron by the Ordinary, upon Avoidance of a Church, and what is

good and sufficient Notice; where and what not. B. 4. 76, 79. b. 5. 2 p. 57. b. 6. 29, 61.

Where and of what Acts of Parliament the Judges are bound of Duty to take Notice, and allow the Party the Benefit of them, without his Pleading of them; where and of what not. B. 4. 13, 75, 76, 120. b. 5. 2 p. 2. b. 8. 28, 137, 138. b. 10. 57.

Where every Man is privy to Acts of Parliament, and ought to take Notice of them at his Peril, and so of other Matters of Record, or not. B. 1. 45, 50. b. 2. 26. b. 3. 71. b. 4. 75. b. 5. 2 p. 113. b. 6. 12, 27, 68. b. 8. 8, 28, 137. See Tit. *Parliament*.

Where a Man shall be excused, because he had not Notice of the Death of a Stranger by whom he claims an Estate, or not. B. 3. 72. b. 4. 82.

Where a Man shall not be punish'd for Wrong, or Hurt done by his Dog, if he had Notice of his Condition, &c. B. 4. 18. See Tit. *Action of the Case*.

Where Issue shall be taken and joined upon Notice. B. 3. 64. b. 4. 18.

Where the Obligor, or &c. shall be bound to perform a Condition without Notice given them of the Matter of it, or not; and how; and by whom must such Notice be given. B. 2. 3, 79, 81. b. 4. 82. b. 5. 2 p. 19, 20, 103. b. 6. 30, 31. b. 8. 82, 92, 98. See Tit. *Arbitrement*, and *Conditions*.

Where convenient and reasonable Time shall be allowed him that is to perform a Condition to the Performance of it after Request and Notice given, and what Time shall be said reasonable and convenient. B. 1. 22, 25. b. 2. 3. b. 3. 28, 34. b. 6. 31. See Tit. *Condition*.

Where Customs of Courts are to be held for Law, and the Judges of other Courts bound to take Notice of them, and to direct their Judgments accordingly. B. 1. 3, 4, 18, 19. b. 2. 16, 17. b. 5. 2 p. 32. b. 6. 6. See Tit. *Courts*, and *Customs*.

Where the Judges of the Civil Law are bound to take Notice of the Com-

mon Law, and contrary, the Judges of the Common Law to take Notice of the Civil Law, and to direct their Judgments accordingly, or not. B. 4. 29. b. 5. 7. b. 7. 43, 44. b. 8. 68, 69, 136. See Tit. *Ignorance*.

Where Notice is material to change an Avowry, and ought to be given, and what is good and sufficient, what not. B. 3. 23, 24, 30, 35, 36, 66. b. 5. 2 p. 57, 58. b. 6. 57, 58. See Tit. *Avowry*.

Where in Avowry Notice ought to be given for what Thing he distains, and where he may avow for another Cause than that which was declared upon the Distress taken. B. 3. 26. See Tit. *Avowry*.

Where Notice is material upon Re-entry for a Condition broken upon Non-payment of Rent, reserved upon a Lease for Years, and Ignorance excuses the Lessor, &c. B. 3. 54, 65. b. 5. 2 p. 113. See Tit. *Acceptance, Collusion, and Ignorance*.

Where the Inquest ought to take Notice of a Deed in another County. B. 5. 2 p. 56. b. 6. 46. b. 7. 2. See Tit. *Enquest*.

Where the Inquest shall find Matter of Record, and take Notice of it upon Pain of Attaint. B. 1. 8, 9, 28, 35, 41, 169. b. 2. 19, 20, 25, 50, 57, 70, 91. b. 3. 7, 69. b. 4. 64, 65. b. 5. 1. 2 p. 3. 98, 99, 104. b. 8. 67. b. 9. 3, 8. b. 10. 121. See Tit. *Inquest*, and *Estoppel*.

Where the Inquest shall take Notice of a Thing over Sea, and find it. B. 6. 6, 46, 47. b. 7. 3. *Calv. c.* 23, 26. See Tit. *Enquest*.

Where the Inquest shall inquire and take Notice of a Thing done before the Time of Memory. See Tit. *Trial*, and *Grant of the King*.

Where Notice is material in Executions, and where the Sheriff, Gaoler, or their Executors shall not be charged upon Escape, without Notice what Prisoners are in the Gaol. B. 3. 70, 72. b. 5. 2 p. 32. See Tit. *Escape*.

Where Notice of the Devise is not material to the Devisee, to disad-

vantage him, because he entred not B. 4. 82. See Tit. *Devise*.

Notice not material, but in Exchange one Party or other may enter upon Eviction, &c. B. 4. 123. See Tit. *Exchange*.

Where Notice of Fraud in the Purchaser by good Faith is not material upon the Statute of fraudulent Conveyances. B. 5. 2 p. 6. See Tit. *Statutes*, 27 *Eliz. c.* 4. and *Collusion*.

Where a Man is excused of a Contempt without Notice of, &c. in Attachment upon Contempt, and what is sufficient Notice. See Tit. *Contempt*.

Where intermeddling with another's Goods without Title is justifiable, because no Notice to whom they belonged. See Tit. *Justification*.

Where Property of Goods is not changed upon Contract in Market open, because the Buyer had Notice that they were stoll. See Tit. *Contract*.

Where the Tenant paravail shall not have a Writ of Mean before Notice given by him to the Mean, and Request to acquit him, and put his Beasts in the Pound, &c. See Tit. *Mesne*.

Where the Inquest is not to take Notice of Matters in Law, and if they do, their Finding is void. See Tit. *Enquest*.

Where Notice of Use is material, and changes the Nature of the Conveyance, and makes Seisin to the first Use. See Tit. *Uses. Of Collusion*.

Where Notice makes the Party not to be remitted, &c. Recovery falsified, &c. See Tit. *Collusion*.

Where Notice is to be given to Strangers to a Judgment by *Scire facias* before Entry. See Tit. *Entry congeable*.

Where Judges may respite their Judgment, because they know the Contrary of what the Verdict has found. See Tit. *Judgment*.

Where a Writ purchased by Journeys Accounts shall be maintained, tho' it was not purchased freshly, because no Notice of abating of the Writ. See Tit. *Journies Accounts*.



Where a Town, or Hundred shall not be charged without Huey and Cry, and Notice given of the Robbery. See Tit. *Huey and Cry*.

Where Notice is material upon Arbitrments, and where to be given to the Parties by the Arbitrators, where not. See Tit. *Arbitrment*.

Where Notice ought to be given to the Arbitrator who is discharged, and his Authority revoked, or no. See Tit. *Arbitrment*.

## Nullity.

Where the King's Grant is void, because not in his Power to grant. B. 4. 53, 34, 35. b. 5. 2 p. 28, 48, 50, 51. b. 7. 7, 25, 36, 37. b. 8. 16, 17, 19, 22, 55, 77, 125, 126. b. 10. 113. b. 11. 4, 53, 85, 89, 90. See Tit. *Grant of the King*.

Exposition of the Words void, irrit, and held for null, and the Fine in Law is null in Statutes, or *Ec.* B. 1. 24. b. 3. 59, 60, 82, 83, 88, 89. b. 5. 2 p. 14. b. 9. 140. b. 10. 100. b. 11. 67, 73. See Tit. *Exposition*.

Where an Act of Parliament shall be void, and held for null. B. 1. 4. b. 6. 5, 6. b. 8. 118. b. 10. 23, 54, 57. See Tit. *Parliament*.

Where a Recovery is void, because before a Not-Judge. B. 4. 147. b. 9. 68. b. 10. 76, 77. See Tit. *Falsifying of Recovery*.

Where a Record reversed shall be accounted no Record in Law. B. 8. 142, 143. See Tit. *Records*.

Where by Reversal of a Record another Record shall be taken away, and void. B. 5. 2 p. 90. b. 8. 119, 142, 152. See Tit. *Error*.

Where a Market, or Fair held, and Contracts made upon *Sunday*, are void and null in Law. B. 5. 2 p. 83. b. 8. 127. b. 10. 20. See Tit. *Deeds*, and *Contracts*.

Where Matters in Law found by Jurors are void, and of no Effect. B. 2. 75. b. 4. 42. b. 5. 5. b. 6. 6. b. 8. 155. b. 9. 12, 13, 23, 25, 30. b. 10. 92. b. 11. 10. See Tit. *Enquest*, and *Verdict*.

Where a Writ of Error shall be to reverse a void Recovery, or Judgment. B. 3. 3. b. 10. 76, 77. See Tit. *Error*.

Where a Verdict contrary to what is pleaded, admitted, confessed, or affirmed by the Parties, is void, or not. B. 2. 4. b. 4. 30, 53. See Tit. *Verdict*.

Where a Verdict of a Thing contrary to a Record is void, because it appears to be apparently false. B. 9. 69. See Tit. *Verdicts*.

Where a Deed is void and null in Law, because of Incertainty, and Want of Intendment. See Tit. *Deeds*, and *Obligation*.

Where if a Man has, or does any Thing farther than a Statute limits and appoints, all is void, or not. See Tit. *Statutes*.

Where Inditements are void for Default of Words in them, or Defect in the Inditors. See Tit. *Enditements*.

Where Letters Patents of the King shall be repealed, and made void. See Tit. *Repeals*.

Where a Deed made by Durefs is void. See Tit. *Durefs*.

Where a Deed, Feoffment, or *Ec.* made by an Ideot, is void. See Tit. *Ideot*, and *Entry congeable*.

Where a Deed, Grant, Lease, or *Ec.* made by an Infant, is void. See Tit. *Infant*.

Where a Deed, Feoffment, or *Ec.* made by a Woman covert, shall be void. See Tit. *Baron and Feme*.

Where a Lease for Years is void by Death of the Lessor. See Tit. *Leases*, *Parson*, and *Acceptance*.

Grant of the Pope to be discharged of Tithes in *England*, void. See Tit. *Pope*.

Where Grants, Leases, Feoffments, or *Ec.* are void by misnaming, or not. See Tit. *Misnaming*.

Where Release, or Confirmation is void for Default of Possession in him to whom, *Ec.* and what is sufficient Possession, what not. See Tit. *Releases*.

Where Release is void, because of Reservation, *Ec.* See Tit. *Releases*.

Where

Where Exception, or Reservation is void. See Tit. *Exception*, and *Reservation*.

Where Excommunication is void. See Tit. *Excommunication*.

Where Exchange is void in Default of due Execution. See Tit. *Exchange*.

Where Things become void by Matter of After-fact from the Beginning. See Tit. *Ex post facto*.

Where a Deed becomes void, because of Rasure, or Interlining. See Tit. *Deeds*, and *Obligation*.

Where a Deed is void for false Latin, or not. See Tit. *Obligation*, and *False Latin*.

Where a Deed is void in Part, and stands in another Part. See Tit. *Deeds*, and *Obligation*.

Where a Fine levied is void in Part, or to one Person, and good for another. See Tit. *Fines*.

Where a Devise is void in Part, and shall stand in another Part, or to one Person, and good to another, and where void in the whole. See Tit. *Devise*.

Where a Warranty made by an Infant, or Man of unsound Memory, is void. See Tit. *Warranty*.

Where a Warranty is void against one, or in Part, and shall stand in another Part. See Tit. *Warranty*.

Where Surplusage in Verdict is not material, but void. See Tit. *Surplusage*, and *Verdict*.

Where Warranty shall be avoided by Entry, or Claim. See Tit. *Warranty*, and *Continual Claim*.

Where a void Grant may be good by Confirmation after, or not. See Tit. *Confirmation*.

Where the King's, or a common Person's Grant is void by false Recital, or &c. or not. See Tit. *Grant of the King*, and *Grants of a common Person*.

Where a Grant, Lease, or &c. may be avoided for a certain Time, and stand for the Residue of the Time. See Tit. *Grants*, and *Condition*.

Where Remainders are void, and by what Causes and Means. See Tit. *Remainder*.

Where a Surrender is void in De-

fault of Possession of him that surrenders. See Tit. *Surrender*.

Where Verdict shall be avoided for eating and drinking of any of the Jurors. See Tit. *Enquest*.

Where Error in Utlary, or &c. shall be reversed and amended without a Writ of Error. See Tit. *Error*, and *Utlary*.

When Court-Leet, or Turn of the Sheriff are not held at the Time, &c. void. See Tit. *Leet*, *Turn of the Sheriff*, and *Statutes*, *Magna Chart*. c. 35.

Where an Obligation is void, and for what Causes. See Tit. *Obligation*.

Where upon Two Offices found before the Escheator upon *Diem clausit extremum*, or &c. one of them is void, and which, &c. See Tit. *Office before the Escheator*.

Where Administration of the Goods of the dead Intestate without Authority is void, or but voidable. See Tit. *Administration*.

Where Rent reserved to a Stranger is void. See Tit. *Reservation*.

## Number.

Where Number is not material in the Coroners, but one may do and execute Things and Acts by himself, where there are two, or more; and what Acts, where, and what not. B. 4. 41, 45, 46, 47. b. 5. 2 p. 820, 121. b. 10. 103.

Where Number is material in Things to be done and executed by an Attorney. B. 5. 2 p. 94. See Tit. *Feoffment*.

Where Number of Auditors is material upon Account, and a Thing done by one is not good. B. 10. 103. See Tit. *Statutes*, *W. 2*. c. 11.

Where Number is material in Jurors of the Standers by. B. 10. 103, 104. See Tit. *Jurors*, and *Statute*. 35 H. 8. c. 6.

Where Number is material in Foreign Attachment according to the Custom of London. B. 10. 103. See Tit. *Custom of London*.

Where Number is material in a Writ, or not; but the Singular shall be

be put for the Plural, and contrary, or not. B. 5. 2 p. 35. b. 8. 48. b. 10. 103. See Tit. *Exposition*, and *Statutes*.

Where Number is not material upon Feoffment to many, at the Time of Livery made, but by Livery to one all may take an Estate. B. 3. 26, 29. b. 5. 2 p. 94. See Tit. *Feoffments*.

Where Number is not material of Executors in the Probate of Testaments, or Refusal before the Ordinary, but the Probate of one is the Probate for all. B. 9. 37, 38. See Tit. *Executors*.

Where Number is not material in Non-suit in Actions, and where and in what Non-suit of one is the Non-suit of all; where, and in what not. See Tit. *Non-suit*, and *Severance*.

Where Statutes shall be expounded and construed by Equity, to extend to another Number. See Tit. *Statutes*.

Exposition of the Words of Number, and where the Plural shall be taken for the Singular, and contrary. See Tit. *Exposition*.

Where Number is material for Chaplains to be retained by Barons and Peers of the Realm, and where, and how many may be retained. See Tit. *Dispensations*.

Where Number is requisite in Riots; and how many must be to make Riots. See Tit. *Riots*.

Who is sufficient to retain Servants, or Prentices, and how many Servants or Prentices may any Man retain. See Tit. *Labourers*.

Where Discontinuance of Process against one is against all. See Tit. *Discontinuance of Process*.

*Nuper obiit.*

Where *Nuper obiit* lies of a Corody. B. 9. 51. See Tit. *Corody*.

Where Age shall be granted in *Nuper obiit*, or not. B. 6. 4. See Tit. *Age*.

*Nuisance.*

By whom, of what, and what Estate this Writ lies, for whom, and of what Estate not. B. 5. 2 p. 101.

Where Nuisance lies for Nuisance

done in one County to Land in another, and where in the Confine of a County. B. 7. 3. See Tit. *Affize*.

Plaint, or Count in Affize of Nuisance, and what is good, what not. B. 9. 54.

Where Nuisance lies for raising an House so near another, that the Rain falls upon it, or *&c.* B. 5. 2 p. 101. b. 9. 54, 58. See Tit. *Action of the Case*.

Where Affize of Nuisance lies for raising a Tozail, or *&c.* B. 9. 57, 58. See Tit. *Action of the Case*.

Where Affize of Nuisance is why he did divert, obstruct, or straighten his Water-course. B. 4. 86. See Tit. *Action of the Case*.

Where a Man is chargeable for Nuisance done in the Time of another, and how such Nuisance is to be redressed. B. 5. 2 p. 101. b. 9. 55.

Where Nuisance shall be beaten down, or not, but stand for the King's Advantage, and who may abate Nuisance, and who not. B. 5. 2 p. 101. b. 9. 54, 55.

Where Affize lies for stopping the Traverse, or *&c.* of an Highway. See Tit. *Action of the Case*.

Where and what Nuisances shall be presented in Leets, what not. See Tit. *Leets, Bar, and Inditement*.

Where Presentments in Leets, or *&c.* of Nuisances shall be traversed, or not. See Tit. *Bar, and Leets*.

Where and for what Nuisance Action of the Case lies, and is maintainable. See Tit. *Action of the Case*.

Where a *Quod permittat* lies upon Nuisance, and for whom, and against whom. See Tit. *Quod permittat*.

**O.**

*Oath.*

**O**ATH of Supremacy, and who are compellable to take it. B. 7. 6, 7. See Tit. *Statute*, 1 El. c. 1, 2.

Of the Oath in making Homage and Fealty. See Tit. *Homage*.

Of the Tenant in Dower, or Nief's Oath not to marry without the King's Licence. See Tit. *Fine to the King*.

Oath

Oath of the Jurors, and Manner of entering their Verdict. See Tit. *Entry of Pleas*.

Oath of the Summoners and Veivours in a Writ of *Difceit*, and where the Trial is by Oath. See Tit. *Difceit*.

Of the Pope's Legate sent into England, and in what Manner. B. 5. 27.

*Obligation.*

What Words are sufficient to make an Obligation, what not. B. 9. 53.

Where and by what Words an Obligation made by two, or more, shall be joint, and where several, where joint and several, &c. B. 5. 2 p. 19, 23, 91, 103, 119. b. 9. 53. See Tit. *Exposition*.

Where void in Part, or against one Obligor, and shall stand good against another. B. 5. 2 p. 23, 119. See Tit. *Deeds*.

Where an Obligation is void, because of Misnaming in the Name of Baptism, Surname, or &c. or not. B. 10. 121 to 125. b. 11. 21. See Tit. *Misnaming*, and *Deeds*.

Where an Obligation is void by Rasure, Interlining, or new Writing, or not. B. 5. 2 p. 23, 119. b. 9. 92. b. 11. 27. See Tit. *Deeds*.

Where an Obligation is void, because made, or indorsed with a Condition to the Sheriff in another Form and Manner than is limited by Statute 23 H. 6. or not. B. 3. 59. b. 5. 2 p. 119. b. 10. 191, 102. See Tit. *Condition*, and *Statutes*, 23 H. 6.

Where an Obligation is void for false, or incongruous *Latin*, or not. B. 5. 2 p. 121. b. 9. 47, 48. b. 10. 133. See Tit. *Deeds*, and *False Latin*.

Where void for Default of Form, or Matter, where it hath not Sense, nor Intendment. B. 5. 2 p. 121. See Tit. *Deeds*, and *Entendments*.

Where Estoppel is by Obligation, or not. B. 2. 4, 33, 34. b. 5. 2 p. 20, 69. b. 6. 30. See Tit. *Misnaming*.

Where upon Obligation to pay Money at several Days, the Obligee shall have no Action till all the Days are past, and where. B. 3. 22. b. 4. 94. b. 5. 2 p. 81. b. 8. 153. b. 10. 128. See Tit. *Debt*, and *Payment*.

Where an Obligation shall take Effect by the first Delivery, and where it may have Two Deliveries, and not be good till the second Delivery. See Tit. *Deeds*.

Where a Man may be bound to himself, or not. See Tit. *Exposition*.

Where an Obligation is void, because it, or the Condition indorsed upon it, is against Law. See Tit. *Conditions*.

Where an Obligation indorsed with a Condition impossible, is good, or because it is become impossible by the Act of Good. See Tit. *Conditions*.

Where an Obligation is good, notwithstanding it want the Words (in Testimony of which.) See Tit. *Deeds*.

Where good, notwithstanding it have not the Words (his Seal he has put.) See Tit. *Deeds*.

Where good without Date, or with an insensible and impossible Date. See Tit. *Deeds*.

Where an Obligation shall remain in the Court, and be delivered again to the Party. See Tit. *Deeds*.

Where an Obligation shall be cancelled and damned. See Tit. *Deeds*.

Where the surviving Obligor shall be charged with the whole Debr. See Tit. *Join-tenants*, and *Execution*, and *Recovery in Value, Debt, and Charge*.

Where in Debt upon Obligation the Defendant upon special Pleading may conclude, and so not his Deed. See Tit. *Debt*.

Where a Successor, and of what Corporation shall have the Obligation made to his Predecessor, or &c. and of what not. See Tit. *Abbot*, &c. *Corporation*, and *Chattels*.

Where a Contract is gone and extinguished by accepting an Obligation for the same Duty, or not. See Tit. *Contract*, and *Extinguishment*.

Where an Obligation by Recovery in Debt upon it has lost the Force of an Obligation by the Recovery, or not. See Tit. *Extinguishment*, *Recovery*, and *Election*.

Of Conditions upon Obligations, and where and when they shall be

said to be performed, and what Acts are Breaches of them. See Tit. *Condition.*

Where an Obligation has lost its Force by Intermarriage betwixt the Obligor and Obligee, or making him Executor. See Tit. *Extinguishment, and Release.*

*Occupant, & Occupanti conceditur.*

Where a Man shall be said Occupant of Fowls, or Beasts savage. B. 5. p. 104. b. 7. 16, 17. See Tit. *Property.*

Where a Man shall be said Occupant of Land, and adjudged in of the Estate as Occupant. B. 6. 33.

Where he that comes to Land, and is in as Occupant, shall be punish'd for Waste done. B. 6. 37. b. 10. 98. See Tit. *Waste.*

Where Age shall be granted to the Heir who enters as Occupant. B. 10. 98. See Tit. *Age.*

*Odio and Atia.*

Of *Odio and Atia*, see Tit. *Statutes, W. 1. c. 11. Glouc. c. 9. W. 2. c. 29. Mag. Chart. c. 16.* and the Books there.

*Office of Court.*

Where the Court of Office and by their Discretion may record a Thing done two or three Terms passed, or not. B. 4. 52. b. 8. 157.

Where Damages in Actions shall be taxed by Discretion of the Court, and increase and be abridged, and where the Writ shall be to inquire of Damages. B. 1. 10. b. 2. 31. b. 3. 71. b. 4. 67, 104. b. 11. 6, 56. See Tit. *Damages.*

Where Judgment may be respited by Discretion of the Court. B. 3. 52. b. 5. 2 p. 40. b. 11. 56. See Tit. *Judgment, and Damages.*

Where another than the common Day may be given in a Plea of Land by Discretion of the Court, or not. B. 5. 2 p. 40. See Tit. *Assent, and Day.*

Where the Court of Office may award the Affize, to inquire of Circumstances. B. 6. 4. See Tit. *Affize.*

Where the Court in their Discretion may suffer a Man to make an Attorney, where out of Rigour of Law he ought to appear in Person, and no Error. B. 8. 58, 59. See Tit. *Attorney, and Error.*

Where the Court of Office shall abate a Writ. B. 3. 81, 84. See Tit. *Writ.*

Where Age shall be granted in an Action by Discretion, or Office of Court, though the Party prays it not. B. 6. 5. See Tit. *Age.*

Where the Court of Office ought to stay Judgment, if any Thing appear to them naught in the Writ, Count, or Process, and where contrary. B. 8. 120, 133.

Where the Court of Office shall give Judgment for the Plaintiff, tho' it appears to them by Verdict, or otherwise, that he has neither Right, nor Title. B. 2. 4, 5. b. 3. 34, 52. b. 4. 44. b. 5. 2 p. 78, 108. b. 8. 120, 123, and 93. See Tit. *Judgment.*

Where the Plaintiff shall have Judgment, tho' the Issue is found against his Saying and Allegation by Office of the Court. B. 2. 5. b. 4. 43, 44, 46. b. 5. 2 p. 78, 79, 108. b. 9. 68, 81, 112, 119. See Tit. *Judgment, and Verdict.*

Where the Plaintiff shall not have Judgment, tho' all be found for him. B. 3. 28, 120. See Tit. *Judgment, and Enquest* below.

Where the Court of Office shall stay Judgment, tho' the Defendant confess, or yield the Action. B. 8. 120, 123. See Tit. *Judgment.*

Where the Court of Office shall try the Accessories Plea before the Plea of the Principal. B. 9. 119. See Tit. *Crown.*

Where the Court of Office ought to examine and see upon a Writ of Error, or false Judgment, if any Error be in the Record, tho' the Parties assign it not. B. 5. 2 p. 37, 58. b. 11. 8. See Tit. *Error.*

Office of the Justices upon vicious and defective Inditements, and where they may of Office of Court cause the Party to be anew indited. B. 4. 45. See Tit. *Inditements*.

Where the Certificate of a Justice of Peace, or &c. of Office shall be an Estoppel. B. 7. 14. b. 8. 121. See Tit. *Estoppel*, and *Averments*.

Where Judgment shall be given of Office of Court, according to the special Matter found, and where according to the Conclusion of the Verdict general. B. 2. 75. b. 4. 42, 53. b. 5. 5. b. 6. 6. b. 8. 155. b. 9. 12, 13, 23, 25, 30. b. 10. 92. b. 11. 10. See Tit. *Enquest*.

Where Judgment of Office of Court shall be contrary to the Verdict, because it appears by Matter of Record to be false, or that they have mistaken the Law. B. 2. 75. b. 4. 42, 53. b. 5. 5. b. 6. 6. See Tit. *Enquest*.

Where the Court of Office shall make Process to inquire of certain Points omitted by the Inquest in their Verdict. B. 8. 8, 66. b. 10. 118, 119.

Office of the Court, not of the Jurors, to judge Matters in Law. See Tit. *Enquest*.

Where the Judges of the Common Law of Office ought to take Notice of the Civil Law, and direct their Judgment accordingly. See Tit. *Ignorance*, and *Notice*.

Where the Court of Office upon pleading in Abatement of a Writ, and concluding to the Action, shall be contrary to the Conclusion of the Plea. See Tit. *Pleadings*.

Where the Court of Office ought not to arraign a Man upon an Inditement, an Appeal hanging against him, or contrary. See Tit. *Appeals*.

Where the Court of Office shall direct Process to the Coroners. See Tit. *Coroners*.

Where the Court shall direct Process to the Metropolitan, or Guardian of the Spiritualities. See Tit. *Writ to the Bishop*.

Where the Court in Cases shall award Inquest of Office. See Tit. *Enquest*.  
Of the King's Bench, and how it

is to demean it self when it comes first into any County and Country. See Tit. *Courts*, and *Bench of the King*.

Where the Court of Office ought to make Inquiry, and take the Inquest to inquire of Collusion in Cases. See Tit. *Collusion*.

Where the Court of Office ought not to take the Inquest, till the Matter in Law be discussed. See Tit. *Demurrer*.

Where the Court of Office shall not stay to do Justice, neither for the Privy Seal, nor Signet. See Tit. *Superfedeas*, and *Seals*.

Where the Court of Office ought to take Notice of an Act of Parliament, or other Matter of Record, without the Pleading of the Parties. See Tit. *Notice*, and *Parliament*.

Where the Court of Office ought to take Notice of Matter in Deed, or Custom of the Country, or of other Courts, and direct their Judgments accordingly. See Tit. *Notice*, and *Customs*.

Where the Court may reverse their own Judgment. See Tit. *Error*.

Where the Court of Office in their Discretion may refuse the King's Grantee of an Office for Insufficiency, or &c. See Tit. *Office*, and *Officers*.

Where and what Points the Court must inquire of in a *Q. Impedit*. See Tit. *Q. Impedit*.

Where the Court of Office ought to direct the Jurors to find the special Matter, notwithstanding the Parties are estopped by their Pleading, or Admittance. See Tit. *Enquest*, and *Verdict*.

#### Office and Officers.

Where the Sheriff, or &c. may break a Man's House, and enter to do Execution, or not. B. 5. 91, 92. See Tit. *Execution*.

How a Man shall be put into Possession of an Office. B. 9. 97.

Where a Man shall have an Office by Discant. B. 7. 2. b. 9. 97.

Where and what Officers come to their Offices by Admittance and Allowance

lowance of Courts, &c. what not. B. 3. 72. b. 4. 33, 41. b. 9. 98. See Tit. *Conroversers*.

Of Purveyors, and how they ought to demean themselves in their Office, and what Things they may lawfully do in their Places. B. 8. 146. b. 10. 73.

Of the *Exigent*, and who is to grant it. B. 4. 33. b. 9. 97.

Of the County-Court, who is to grant it. B. 4. 33. b. 9. 97.

Of the Warden of the Writs who is to grant it. B. 9. 197.

Of the Protonotary of the Common Bench, or King's Bench, who is to grant them.

Of the Office of the Marshal of the Court of the King's Bench, and Prison of the Marshalsea, and how, and what Estate may be granted of it, what not. B. 9. 97. See Tit. *Marshalsea*.

Where Assize lies of an Office, and how Title is to be made the Plaintiff in Assize of an Office, or of Parcel. See Tit. *Assize*, and *Plaint*.

Of a Constable, and his Authority. See Tit. *Authority*, and *Constable*.

Of the Admiral, and his Authority. See Tit. *Admiral*.

Of the Sheriff, and his Authority upon Writ of Justicies. See Tit. *Justicias*, and *Sheriff*.

Of the Sheriff upon Executions, and where he shall be escaped, or not. See Tit. *Authority*, and *Escape*.

Of the Sheriff, and what is good Justification in Trespass of Goods taken, an House or Clois broken. See Tit. *False Imprisonment*, *Justification*, *Request*, and *Execution*.

Where the Sheriff doing his Office is a Disseisor, or not. See Tit. *Disseisin*, and *Sheriff*.

Where the Sheriff delivers Lands in Execution upon *Elegit*, or Recognisance, he ought to return the Extent, &c. See Tit. *Extent*, *Execution*, and *Recognisance*.

Of the Sheriff upon a Writ of Execution, and how he shall demean himself upon it. See Tit. *Extent*, *Execution*, *Recognisance*, and *Sheriff*.

Of the Sheriff's Authority upon the Writ of Redisseisin. See Tit. *Redisseisin*, and *Sheriff*.

Of the Sheriff's Authority upon the Writ of *Non omittas*. See Tit. *Non omittas*, and *Sheriff*.

Of the Sheriff's Return upon Writs, and which are good, which not. See Tit. *Return of the Sheriff*.

Of the Sheriff, and where he shall be charged, and answer for the Act and Negligence of Dury of his Under-Sheriff. See Tit. *Charge*.

Of the Escheator, and how he shall demean himself in his Office. See Tit. *Escheator*, and *Office before the Escheator*.

Of the Coroner, and his Authority, and the whole Matter concerning the Coroner. See Tit. *Coroner*.

Where the King's Grant of an Office is good, or not. See Tit. *Grant of the King*.

Where a common Person's Grant of an Office is good, or not. See Tit. *Grant of a common Person*.

Where and what Offices may be assigned and executed by a Deputy, where and what not. See Tit. *Assignea*, and *Deputy*.

Where a Demand shall be of an Office by *Præcipe quod reddat*. See Tit. *Demand*.

Where Entry of Pleas shall be by Protonotaries, and other Clerks. See Tit. *Entry of Pleas*.

Where and what Officers may be impleaded by Bill. See Tit. *Bill*.

Office of the Ordinary, and to what Intents he is an Officer to the King's Courts. See Tit. *Writ to the Bishop*, and *Ordinary*.

Election of Officers, as Sheriff, Coroner, or &c. See Tit. *Election*.

Where one Office may be appendant to another. See Tit. *Appendant*.

Of a Bailly, and what Things he may do, and execute by Virtue of his general Office, what not. See Tit. *Bailly*.

Of Forester, Parker, or Keeper of Warrens and Chafes. See Tit. *Forests*, and *Warren*.

Where

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Where and what is Extortion in Offices, what not. See Tit. *Extortion*.

Where and what Officers may claim Fee by Prescription, and what Fees, what not. See Tit. *Fees*.

Of the Marshal and high Constable of *England*, and their Jurisdiction and Authority. See Tit. *Authority*.

Where Amendment shall be of a Record, Roll, or Process, which is defective in Default of the Clerks, and Officers of the Court. See Tit. *Amendment*.

Where the Lands of the King's Officers, sold and aliened by Covin to defraud the King of his Debts, are liable to satisfy the King's Debt. See Tit. *Collusion*.

Where an Office granted for Life, &c. by the Justices, who have their Places but at the King's Will, is good, and how long the Grants shall stand. See Tit. *Extinguishment*.

Where a Bishop shall be said an immediate Officer of the King's Courts, and to what Intents. See Tit. *Bishop and Ordinary, Writ to the Bishop, Certificate of the Bishop*.

Where the King may apportion an Office. B. 4. 33.

Where it is in the Election of the Officer who arrests upon a Warranty of the Peace to carry the Party arrested to what Justice he pleases. See Tit. *Arrests, and Election*.

Where and what Offices may be bargained and sold for Money, notwithstanding the Statute to the contrary. See Tit. *Statutes*, 5 E. 6. c. 16.

Forfeited, and by what Acts or Negligences, or &c. See Tit. *Forfeiture*.

Of a Watchman, and his Authority. See Tit. *Justification*.

*Office before the Escheator.*

How an Escheator shall demean himself upon Offices taken by Virtue of Office, or otherwise, and upon Return of them. B. 1. 42. b. 4. 57. See Tit. *Escheator*.

Where Office taken by Virtue of Office, or otherwise, which finds Mat-

ter of Record, is good, or not. B. 1. 28, 35, 41. See Tit. *Enquest*.

Where Office taken by Virtue of Office, or of Writ, or otherwise, shall be sufficient for the King, or Party, notwithstanding the Incertainty, or not. B. 8. 168. b. 9. 134.

Where and what Office found before an Escheator, or &c. is good and sufficient to intitle the King, but not for the Heir to have Livery, or &c. B. 4. 54. b. 7. 21. b. 10. 114, 115. See Tit. *Traverse to an Office*.

Where an Office found and taken before Commissioners, is equivalent with an Office found and taken before the Escheator, and where an Office taken before them, shall be without Warrant. B. 7. 16, 21. b. 10. 114, 115.

Where upon Two Offices found before the Escheator by Virtue of Writ, or &c. one shall be void, and where both shall stand in Force, and to what Intent, and what not. B. 8. 169. See Tit. *Statutes*, 2 E. 6. c. 8. and *Livery*.

Where presently by Office found the King is in Possession, or not, till he enter and seize by Force of the Office. B. 3. 11. b. 4. 58. b. 5. 2 p. 36. b. 9. 35, 96. b. 11. 12. See Tit. *Entry congeable*.

Where the King's Grant is good before Office found, to intitle him, or other Matter of Record, or not. B. 1. 42. b. 3. 10, 29. b. 5. 2 p. 55, 56. b. 6. 5. b. 8. 165. b. 11. 12. See Tit. *Entry congeable*, and *Grant of the King*.

In what Courts Offices taken, &c. by Virtue of Writ, or of Office, shall be returned, in what not. B. 1. 42. b. 3. 80. b. 4. 57. b. 7. 16. See Tit. *Escheator*, and *Exchequer*.

How, and to what Time Offices found before the Escheator, shall have Relation. B. 4. 59, 126, 127. b. 5. 2 p. 55, 56. b. 8. 271.

Where and upon what Office found a *melius inquirendum* shall be awarded, where and upon what not. B. 8. 168.

Where the King's Entry into Lands, or Tenements, or Seizure by him and



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and his Ministers is good without Office found, or not. See Tit. *Entry congeable*.

Where the King cannot enter, nor Seize Land, or &c. upon Office found without *Scire facias*, or contrary. See Tit. *Entry congeable*, *Repeal*, and *Scire facias*.

Office found by Virtue of a Commission, under what Seal, and the Seal of what Court is sufficient to intitule the King, of what not. See Tit. *Seals*, and above.

Where Office found before the Escheator shall be traversed in the Chancery, or common Bench, or elsewhere. See Tit. *Traverse to an Office*.

Where an Office may be avoided without Traverse, as well for Lands as Goods. See Tit. *Traverse to an Office*.

Where an Office cannot be avoided by Traverse, but Petition must be. See Tit. *Petition*.

Where no Traverse is to be to an Office, if the King be intituled by double Master of Record. See Tit. *Petition*.

Where Entry upon the King's Possession by the Heir, or &c. before Office found, is not Intrusion. See Tit. *Intrusion*.

Where and what Office found before the Escheator, shall be said Tenure in chief of the King, what not. See Tit. *Tenure*.

Where a Man shall not traverse an Office, unless another Office be found for him. See Tit. *Livery*, and *Traverse to an Office*.

Where *Diem clausit extremum*, or *Mandamus* shall issue after *Diem clausit extremum*, and Office found, or not. See Tit. *Livery*.

Where and upon what Office Interpleading is betwixt two found Heirs by several Offices. See Tit. *Livery*, and *Enterpleader*.

*Official.*

Where Administration committed by the Ordinary, or his Official. See Tit. *Administration*.

Where the Certificate of the Official &c. is good, or not. See Tit. *Certificate of the Bishop*, and *Excommunication*.

Where a Testament proved before the Official of &c. See Tit. *Testament*.

Where Prohibition directed to the Official, &c. is good and sufficient. See Tit. *Prohibition*.

*Omission.*

Where Amendment shall be of any Thing omitted in the Court, Writ, or &c. and of what, of what not. B. 4. 52. b. 5. 2 p. 41, 42. b. 8. 159, 160, 162. See Tit. *Amendment*.

Where Amendment shall be of Process upon Original, or Issue joined, or Omission, or Misaward, or not Award of it, or not. B. 5. 2 p. 42, 43. b. 8. 156, 157, 160. See Tit. *Amendment*.

Where Amendment shall be of a Record, Roll, or Process, where Omission of a Word or Syllable is in Default of the Clerks. B. 4. 52. b. 5. 2 p. 43, 44, four times, 45, 46. B. 8. 157, 158, 159, 161. See Tit. *Amendment*.

Where the Court of Office, and out of Discretion, may amend a Thing in another Term, and record a Thing two or three times passed. B. 4. 52. b. 8. 157, 161, 162. See Tit. *Amendment*, and *Office of the Court*.

Where the Writ shall abate for Default of Omission of Matter. B. 8. 88. See Tit. *Writ*.

Where the Court of Office shall make Process to inquire of certain Points omitted by the Inquest in their Verdict, or not. B. 10. 118, 119. See Tit. *Office of Court*.

Where a Deed is good, notwithstanding Omission of the Words (in Testimony of which.) B. 2. 4, 5. See Tit. *Deeds*.

Where the Writ shall abate for Omission of any who held the Estate in the Conveyance of the Title. B. 8. 88. See Tit. *F. rmedon*.

Where the Plaintiff in *Q. Impedit* in his Count may make Omission of any

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any Presentment to the Church, or not. B. 5. 2 p. 98. See Tit. *Q. Impedit.*

Where Words subsequent in Deeds shall have Relation to a Thing mentioned before in the Premisses, and to be supplied, tho' the Word (aforesaid) be omitted. B. 4. 44. b. 8. 85, 154. See Tit. *Relation.*

Where a Feoffment, Grant, or *&c.* is good without naming the Grantor, or Grantee, Feoffor, or Feoffee, *&c.* by the Name of Baptisin, or of a Corporation. B. 1. 101. b. 2. 51. See Tit. *Grant, Capacity, and Devise.*

Where Discontinuance of Process is by Omission of any Thing, or of one Party. See Tit. *Discontinuance.*

Where Inditements are void for Omission, *&c.* See Tit. *Inditements.*

Where Return of the Sheriff, or other Officer of the King, is void for Omission of their Name indorsed, or not. See Tit. *Return of the Sherifff.*

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Where Action shall be maintained by the Ordinary, and what Action, and what not. B. 5. 2 p. 82, 83. b. 8. 135. b. 9. 39. See Tit. *Statutes, West.* 2. c. 19.

Where an Action is maintainable, and lies against the Ordinary, or his Executors, and what Action, and what is a good Bar in an Action of Debt, or *&c.* against him, what not. B. 5. 2 p. 85. b. 9. 39. See Tit. *Statutes, West.* 2. c. 19.

The Ordinary shall be charged upon Wasting of his Goods proper, and what shall be wasting in him, where, and what not. B. 8. 135. b. 9. 39.

Where the Ordinary may sequester the Goods of the Intestate, nay where there are Executors, he may sequester, and how he shall demean himself in it. B. 9. 39, 40.

Where the Executor, or Administrator shall account to the Ordinary, and of what Things they shall account, where and of what not. B. 9. 40.

Where and of what Things the Ordinary has Jurisdiction, and the

Spiritual Court shall hold Plea, where and of what not. B. 5. 6, 9, 13, 16, 23, 25, 27. 2 p. 5, 67. b. 11. 99. See Tit. *Jurisdiction, Prohibition, and Consultation.*

Who shall be said the ordinary, and immediate Minister to the King's Courts, and where the King's Courts shall write to another as Ordinary, and not to the Bishop, or not. B. 5. 11, 15, 23. See Tit. *Writ to the Bishop, Process, Bishop, and Excommunication.*

The Ordinary's Authority in his Visitation, and in what Things he may deal, in what not. B. 11. 99.

Where the Court of Office ought to allow Clergy without the Challenge of the Parry, or Claim of the Ordinary. B. 5. 26, 27. See Tit. *Clergy.*

Where and what Clerk convicted, or he that has his Clergy, shall be delivered to the Ordinary. B. 11. 26. See Tit. *Clergy.*

Who shall be Judge to allow, or disallow Clergy, the Ordinary, or Judge temporal. B. 5. 26, 27. See Tit. *Clergy.*

Where a Man shall be Executor after his Refusal before the Ordinary, and Refusal not material. B. 9. 37, 38. See Tit. *Executors.*

Where the Ordinary's Release bars not the Administrator. B. 8. 136. See Tit. *Releases.*

Where and to what Person Administration shall be committed by the Ordinary. B. 9. 38, 39. See Tit. *Statutes, 31 E. 3. c. 11.*

Where Administration committed by the Metropolitan, as supreme Ordinary, without Authority, and where it belongs not to him, is not void, but voidable. B. 5. 2 p. 30, twice. B. 8. 135, 136.

Where Administration committed by the inferior Ordinary, is void. B. 5. 2 p. 30. See Tit. *Administration.*

Where Administration once committed by the Ordinary, shall be revoked. B. 5. 2 p. 30. b. 6. 18, 19. b. 8. 135. See Tit. *Administration.*

*Ordinary. Oyer and Terminer. Orphans. Over Sea. Ouster la main.*

Of proving a Testament, and before what Ordinary it shall be proved. See Tit. *Testament*.

Where Writ to the Bishop shall be awarded, the Church being full of the Collation of Bishop Ordinary, as well after Six Months, as within them. See Tit. *Writ to the Bishop*.

Where and upon what Plea of the Ordinary the Writ to the Bishop shall be awarded. See Tit. *Writ to the Bishop*.

Where the Ordinary's Temporalities shall be seized into the King's Hands, and for what Acts, or Contempts. See Tit. *Contempts*.

Who is a sufficient Ordinary to certify Excommunication, &c. who not. See Tit. *Excommunication*.

Where the Grant of the Patron and Ordinary without the Person is sufficient to charge the Church. See Tit. *Annuity, Parson, and Patron*.

What Issues shall be tried by the Ordinary, what not. See Tit. *Deprivation, Bastardy, Divorce, and Trial*.

Where the Church is void without Sentence of Deprivation by the Ordinary, or not. See Tit. *Q. Impedit*

Where Recovery against the Parson without praying in Aid of the Patron and Ordinary shall be falsified. See Tit. *Falsifying of Recovery*.

Where the Ordinary upon Avoidance of a Church shall give Notice to the Patron, &c. or not. See Tit. *Notice*.

What are good Pleas by the Bishop Ordinary in a *Q. Impedit* against him where he claims as Ordinary. See Tit. *Q. Impedit, and Presentment to a Church*

*Oyer and Terminer.*

Justices of Oyer and Terminer, and their Authority. B. 4. 46, 47. b. 6. 20. b. 7. 12. b. 9. 56, 119. See Tit. *Justices*.

*Orphans.*

Custom of London for their Lands, Goods, and Portions there. B. 4. 64, 65. b. 5. 2 p. 73.

Orphans in Ward for their Lands, Bodies and Goods, and to whom. See Tit. *Ward*.

Where Prohibition shall be granted upon Suit in Court-Christian, or &c. for the Portions of Orphans. See Tit. *Prohibition*.

*Over Sea.*

Where the Inquest shall try and inquire of a Thing done over Sea, or not. B. 6. 46, 47. b. 7. 3. *Calv. Case*, 23, 26. See Tit. *Enquest*.

Where Issue shall not be taken upon the Plea of the Defendant, because it rises upon Matter over Sea, but the Plaintiff shall maintain his Action, and upon the Replication Issue shall be joined, because of Trial. B. 6. 47. b. 7. 26, 27. See Tit. *Issue*.

Where a Contract made, of which Part is to be performed beyond Sea, shall be tried. B. 6. 47.

Where Negligence of Claim, or Entry upon a Fine levied of Lands, shall not be imputed to a Man over Sea, and what Time he shall have to enter, or claim after his Return. B. 3. 92. b. 4. 125. b. 7. 23. b. 8. 100.

Where Entry is lawful, notwithstanding Discent during the Time he was over Sea. B. 8. 100.

Where a Man shall not inherit Land in England, because he was born over Sea. See Tit. *Alien born*.

Of Fugitives over Sea without the King's Licence, and how they shall be punish'd. See Tit. *Contempt, and Fugitives*.

*Ouster la main.*

Form and Order to be observed in suing *Ouster la main*, and out of what Court it shall be awarded. B. 9. 98.

Where Entry is lawful upon the King's Possession, and his Possession shall be voided without *Ouster la main*, Livery, or Petition made, or not. B. 1. 50, 133. b. 2. 53. b. 4. 55, 56, 59. b. 7. 32. b. 8. 76, 172. b. 9. 96, 98. See Tit. *Entry congeable, Livery, and Inquisition*. Where

*Out of his Fee. Pain. Panel. Pardon. Parco fracto. Park. Parliament.*

Where Interpleader shall be betwixt two, where they sue to take of the King's Hand, or not. B. 7. 45. See Tit. *Livery*, and *Interpleader*.

Where the Feoffees of him to whose Use shall have *Ouster la main* of the King. See Tit. *Ward*, and *Livery*.

Where a Man may have *Ouster la main* of the King, together with Issues, or not. See Tit. *Livery*.

Where a Man shall have *Ouster la main* of the King, and avoid his Title by pleading without Petition sued, where he is intituled by double Matter of Record. See Tit. *Petition*, *Entry congeable*, *Traverse to an Office*.

*Out of his Fee. See Tit. Hors son fee.*

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*Pain.*

**W**HERE a Juror shall be demanded upon Pain, and where not. B. 8. 41.

Where Pain shall be to the Value of his Land. B. 8. 41. See Tit. *Fine to the King*.

How Pain shall be assessed and af- fered. B. 8. 41.

*Panel.*

Where Challenge may be to the Array, because Knights were not returned upon the Panel. B. 6. 45. See Tit. *Challenge*.

Where Challenge shall be to the Knights who were returned upon the Panel in a Writ of Right. B. 9. 32.

Who, and of what Estate shall not be impanelled upon Juries, and if they be, how they shall be discharged. B. 6. 53. b. 8. 108. b. 9. 49. See Tit. *Jurors*.

Where Jurors of the Circumstant. shall be added to the Panel, or not. See Tit. *Jurors*, and *Stat. 35 H. 8. c. 6*.

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*Park. See Tit. Forest.*

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Form of making Statutes, and what is an Act of Parliament, and what Assent of the Lords and Commons is required to make it. B. 8. 15, 18, 19, 20 to 26. b. 9. Epist. b. 11. 34.

Who are Peers of Parliament, who not. B. 7. 15. b. 9. Epist.

Where an Act of Parliament is erroneous, void, and superfluous in Part, or the Whole. B. 1. 24. b. 6. 5, 6. b. 8. 118. b. 10. 23, 54, 57.

The Authority and Power of an Act of Parliament. B. 1. 87, 137.

The Parliament is the most High and Honourable Court within the Realm of *England*. B. 8. 120. b. 9. Epist. b. 11. 14, 63.

Where a former Act of Parliament shall be repealed by a latter, and what is a Repeal, what not. B. 1. 25. b. 6. 20. b. 8. 128, 137. b. 10. 138. See Tit. *Repeals*, and *Statutes*.

To what Time the Parliament has Relation, if no Time be limited when it is to begin. B. 6. 14. b. 10. 55, 56. See Tit. *Relation*. b. 9. 119.

Where every Man shall be said privy to an Act of Parliament, and bound, and concluded by it. B. 1. 47, 48. b. 4. 79. b. 6. 12, 27, 68. b. 8. 28, 137.

Form of Pleading an Act of Parliament, and where in the Count counting, or Plea pleading, all the Act and Prorogations ought to be alledged and where the Plea is vicious, if it be mispleaded. B. 1. 27, 28, 32, 54, 68, 78, 86, 107, 108, 115, 133, 142. b. 2. 7, 11, 13, 46, 53. b. 3. 27, 55. b. 4. 101. b. 6. 79. b. 8. 68, 109.

Where the Court of Office ought to take Notice of an Act of Parliament, or other Matter of Record, and where not without pleading of the Party who would have Advantage by it. B. 4. 13, 76, 120. b. 5. 2 p. 2. b. 8. 28, 137, 138. b. 10. 57. See Tit. *Notice*.

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Where and what Writs founded upon Acts of Parliament, ought to rehearse the Statute in the Count. B. 4. 12. 76. b. 5. 2 p. 45, 75. b. 11. 56, 83. See Tit. *Action upon Statutes*.

Where Acts of Parliament made in England, bind those of Scotland and Ireland, or not. See Tit. *Ireland*.

Where and what Acts of Parliament extend to antient Demean, what not. See Tit. *Antient Demean*.

Where and what Acts of Parliament comprehend and extend to Copyholds. See Tit. *Copyholds*.

Where *Exigent* shall be awarded against a Lord of the Parliament, or not. See Tit. *Exigent*.

Construction of the Words (Saving, or *Salvo*) in Acts of Parliament. See Tit. *Exception*, and *Reservation*.

Where a Baron, and Lord of Parliament shall be by Prerogative exempt from Juries. See Tit. *Exemption*, and *Juries*.

Where a Day of Grace shall be given against a Peer, and Lord of Parliament. See Tit. *Day*.

Where in Action by or against a Lord of Parliament, and Issue joined there ought to be Knights upon the Panel. See Tit. *Challenge*.

Where a Lord of Parliament shall have Trial by Peers in Cases of Felony, or Treason. See Tit. *Crown*, and *Trial*.

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Where a Writ of Error shall be brought in Parliament. See Tit. *Error*.

Where and what Things cannot be granted, nor changed but by Act of Parliament, and not by the King's Grant. See Tit. *Grant of the King*.

Where the King's void Grant, or a common Person's may be made good by Act of Parliament. See Tit. *Confirmation*.

The Prerogatives of the Barons, and Peers of Parliament. See Tit. *Prerogative*.

Where the Issue in Tail shall not be remitted against an Act of Parliament.

Parson and Patron.

Where Grant of the Patron and Ordinary without the Parson is good to charge the Church. B. 1. 147. b. 5. 2 p. 81. b. 8. 145. See Tit. *Annuity*.

Where Leases made by Parsons, Prebends, Vicars, &c. are void by Non-residence, Death, Resignation, or other Accident, or not. B. 1. 51, 153. b. 2. 46. b. 3. 65. b. 4. 23, 24, 76. b. 5. 2 p. 6. 14. b. 6. 21, 37. b. 7. 8. b. 11. 67. See Tit. *Acceptance*, and *Leases*, and *Confirmation*.

Where a Release to the Patron is good and sufficient to extinguish an Annuity, or Rent issuing out of a Church, or Parsonage. B. 1. 112. b. 5. 2 p. 71, 81.

Where a Lease made by a Parson of a Church, Vicar, or Prebend binds the Successor by his Agreement after. See Tit. *Abbot*, *Acceptance*, *Agreement*.

Where a Grant, Lease, or &c. made by a Parson of a Church, Prebend, or Vicar, is good, and binds the Successor by Confirmation of the Patron, or &c. and what is sufficient Agreement and Confirmation, what not. See Tit. *Confirmation*.

Where a Grant, Lease, or &c. by a Parson before Induction is void. See Tit. *Encumbent*, and *Quare Impedit*.

Where Assize lies for the Parson of a Church for Tithes, or &c. See Tit. *Assize*.

Where an Infant cannot be Parson of a Church. See Tit. *Infant*, and *Encumbent*.

Where the Successor of a Parson, Vicar, or Prebend shall falsify a Recovery had against their Predecessors, or not. See Tit. *Falsifying of Recovery*.

Where Aid shall be granted to a Parson, Vicar, or &c. from the Patron and Ordinary. See Tit. *Aid*.

Where and what are sufficient Causes of Deprivation of a Parson, Vicar, or Prebend. See Tit. *Deprivation*.

Where Disseisin, Usurpation, or Intrusion by a Bishop, Parson, or &c. shall

shall be Mortmain, or not. See Tit. *Mortmain*.

Where and to what Intents and Purposes a Man may be a Parson by Admission and Institution, without Induction, and to what not. See Tit. *Encumbent*, and *Q. Impedit*.

Pleas for the Patron, and which he shall have in *Q. Impedit*, which not. See Tit. *Encumbent*.

Where Alienation by a Parson, Vicar, or Prebend is Discontinuance, or not. See Tit. *Discontinuance*.

In whom is the Fee-simple of the Glebe-land and Parsonage, in the Parson, or another. See Tit. *Right*.

Where the Frank-tenement of a Parsonage is in Abeyance, during the Life of the Parson, or by his Death. See Tit. *Abeyance*.

Where Copyhold granted by the Parson of a Church, Prebend, or *&c.* Lord for the Time, is good against the Successor. See Tit. *Copyhold*.

Where Tithes are to be paid to the Parson, or not. See Tit. *Tithes*.

Where Tithes are extinguished by Unity of Possession in the Parson of *&c.* or not. See Tit. *Tithes*.

Where the temporal Court has Jurisdiction in Trespass, or *&c.* between Two Parsons of a Church, or their Servants and Farmers for Tithes. See Tit. *Jurisdiction*.

Of *Furis Utrum* by the Parson, Vicar, or Prebend. See Tit. *Furis utrum*.

Of a Parson Imparsonnee, and the whole Matter concerning it. See Tit. *Appropriation*.

Of Plenarty of a Church by Six Months of an Incumbent presented, or of a Parson imparsonnee, good Plea in *Q. Impedit*.

Of a Parsonage, or Vicarage, and where the Church is void in Deed, and when in Law, and what Act shall be said an Avoidance. See Tit. *Q. Impedit*, and *Notice*.

Issues joined upon Admission, Institution, or Induction of a Parson of a Church, and how such Issues shall be tried. See Tit. *Trial*.

Where Prohibition shall not be granted upon Suit in Court-Christian,

by the Parson for Dilapidations. See Tit. *Prohibition*.

Form of pleading of Seisin of a Parson of a Church, Prebend, or *&c.* and where he shall be seized in the Right of his Church, and where in the Right of his Prebend. See Tit. *Corporation*.

Who shall present to a Vicarage the Parson of a Church, or Patron. See Tit. *Quare Impedit*.

Payment.

Where a Man shall not have an Action of Debt, or *&c.* to be paid at several Days, till all the Days are past, and where contrary. B. 3. 22. b. 4. 94. b. 5. 2 p. 81. b. 8. 153. b. 10. 128. See Tit. *Debt*, and *Obligation*.

Condition to pay Monies to a Man, his Heirs, or Executors, how to be performed, and to whom the Payment is to be made, where to the Heir, or Executor. B. 5. 2 p. 95, 96, 114. b. 8. 95. See Tit. *Conditions*.

Where Condition to pay Monies be performed by retaining, and that shall countervail Payment in Fact, or not. B. 5. 2 p. 117. See Tit. *Condition*.

How a Condition to pay Monies shall be performed, and what shall be said Satisfaction, and to countervail Payment, what not. See Tit. *Condition*.

Where a Condition to pay Monies shall be performed by Acceptance of another Thing, or Acceptance of Part in full Satisfaction, or not. See Tit. *Condition*.

Where Payment may be pleaded without shewing a Deed, or Acquittance testifying it, or not. See Tit. *Monstrance of Deeds*.

Where Payment of Monies shall be accounted according to the Intent of him that tenders and pays. See Tit. *Acceptance*.

Where Execution of the Body without Payment is not Satisfaction. See Tit. *Execution*, and *Satisfaction*.

*Parish and Parishioners. Parol demur. Part, Parcel, and Moieties.*

*Parish and Parishioners.*

Where the Venue shall be of a Parish, not of a Town. B. 1. 162. b. 11. 25. b. 6. 14. See Tit. *Visne*.

*Parol demur.* See Tit. *Age*.

*Part, Parcel, and Moieties.*

Where Attornment for Parcel is good, and how it shall enure, and where by one Tenant, &c. B. 2. 67, 68. See Tit. *Attornment*, and *Per que servitia*.

Where Seisin of Parcel of the Services, or Rent, is Seisin of all the Services, or Rent, to make Avowry, or have an Affize. B. 4. 8, 9. b. 6. 57. b. 9. 34, 55. b. 10. 127. See Tit. *Avowry*, and *Seisin*.

Where the Writ shall abate for Parcel, or against one Party, and stand for or against another. B. 5. 2 p. 18, 97. b. 11. 5, 45. See Tit. *Writ*.

Where Surrender of Parcel of a Term is good, or not. B. 5. 2 p. 11. See Tit. *Surrender*.

Where Arbitrement of Parcel is good, and where good in Part, and void in Part. B. 5. 2 p. 78. b. 8. 98.

Where Livery and Seisin of Parcel in Name of all upon a Feoffment is good, and all passes. B. 1. 75. b. 5. 2 p. 79. See Tit. *Feoffments*.

Where a Condition upon an Obligation, Grant, Feoffment, or &c. shall be discharged in Part by the Act of God, Law, or that Party, and stand for the other Part, or not. B. 4. 52, 120. b. 5. 2 p. 22, 56. See Tit. *Condition*, and *Apportionment*.

Where Warranty bars in Formedon, or &c. for Part and Parcels, or not, but for the Intire. See Tit. *Rebutter*, and *Warranty*.

Where after Demurrer joined for Parcel, and Issue for another Parcel, no Process shall be awarded against the Inquest, till the Demurrer discussed. B. 1. 34. b. 10. 54. See Tit. *Demurrer*.

Where Writ to the Bishop shall be

awarded for Parcel, or against one Defendant, but Execution shall cease till Issue joined for the other be tried. B. 6. 49. b. 7. 25. b. 10. 54. See Tit. *Writ to the Bishop*.

Where Debt shall be maintained for Parcel of a Sum upon a Contract, or Obligation, or not. See Tit. *Debt*, and *Obligation*.

Where Age shall be granted, and the Plea demur for Parcel or Nonage of one, or not, but for all. See Tit. *Age*.

Where a Record and Judgment shall be reversed for Part, or one Def. and stand for the other Part, or Def. or not. See Tit. *Error*.

Where the whole Record shall be removed, or not; but Parcel, &c. See Tit. *Error*, and *Record*.

Where Discontinuance of Parcel of the Process shall be Discontinuance of the whole, or against one, against all. See Tit. *Discontinuance*.

Where a Writ of Error shall be maintained for Parcel, or not till Judgment be given of the whole, or against all, or not. See Tit. *Error*.

Where a Devise is void in Part, and shall stand for another Part, or void to one, and good for another. See Tit. *Devise*.

Where the whole Land of the Recognisor shall be discharged of Execution by Purchase of Parcel by the Recognisee, and against whom, against whom not. See Tit. *Extinguishment*, and *Audita querela*.

Where Rents, Services, or a Seignory are extinguished by Parcel of the Land by the Lord, or not. See Tit. *Apportionment*.

Where Affize lies of Parcel of a Rent, Common, Corody, Estovers, or &c. See Tit. *Affize*.

Where Exchange avoided in Part, shall be avoided in the whole. See Tit. *Exchange*.

Where the Grant of a Reversion of one Tenant, where there are two, or of Parcel is good, or not. See Tit. *Grant*.

Where a Deed shall be void in Part, and good in Part. See Tit. *Deeds*.

Where

Where Warranty is void against one, and stands against another. See Tit. *Warranty*.

Where Revocation of Uses by Parcels, or in Part is good, where of Parcel at one Time, and Parcel at another. See Tit. *Recovery*.

Where after Petition betwixt Two Lessees for Life, he in Reversion after the Death of one may enter upon his Part, or not. See Tit. *Join-Tenants*, and *Partition*.

Where Return of Beasts shall be awarded of all for Parcel of the Services behind, for which they were taken. See Tit. *Return of Beasts*.

Where Reservation of Parcel of a Thing granted of that which otherwise should pass as incident, or appendant, is good, or not. See Tit. *Reservation*, and *Exception*.

Where a Prohibition lies upon a Suit in Court-Christian for a Thing, Parcel of which is spiritual, Parcel temporal. See Tit. *Prohibition*.

Where Consultation shall be granted for Part, or Parcel, or no. See Tit. *Consultation*.

Where and how Rent and Land &c. may be Parcel of a Town, Castle, or Honour. See Tit. *Appendant*.

Where one Manor may be Parcel of another Manor. See Tit. *Manor*.

Where a Fine levied of Lands, &c. shall be void in Part, or to one Person, or good for another Part, or Parcel. See Tit. *Fine of Lands*.

Where and to what Intents and Purposes *Scotland* and *Ireland* are Parcel of the Realm of *England*. See Tit. *Ireland*.

Where an Act of Parliament is void in Part, and where in the whole. See Tit. *Parliament*.

Where a Man shall not have Judgment for Parcel, unless he will release for the other Part. See Tit. *Judgment*.

Where the Plaintiff may release Damages against one Defendant, and pray Judgment against the others, and where no Judgment shall be against the Principal, unless there be

a Release of Damages in the Part, or whole. See Tit. *Damages*.

Where a Writ, or Count in Right of Advowson, or *Q. Impedit* shall be of a Moiety, or third Part of an Advowson, or of the Advowson of the third Part or Moiety. See Tit. *Advowson*.

Where a Demand shall be of a Moiety, third or fourth Part in Assize by the Plaintiff, or *Precipe quod reddat*. See Tit. *Demand*.

Of Custom, that the Wife shall have the Moiety, or all the Land of her Husband in Dower. See Tit. *Custom*.

Where the Husband and Wife shall take an Estate in Lands, or &c. by Moieties, or not, but by Intretics. See Tit. *Baron and Feme*.

Where the Half of the Jurors ought to be of Aliens. See Tit. *Alien born*.

Where Tenure shall be apportioned for a Moiety, or Participle upon Feoffment of a Parcel, &c. See Tit. *Avowry*, and *Apportionment*, and *Statutes*, 19 E. 1. *Quia emptores terrarum*.

Where the whole Record shall be revived by Reattachment, or but Parcel. See Tit. *Record*, and *Reattachment*.

Where a Man shall be remitted; and Entry is lawful; because the other is participant of the Crime, and Party, or Privy to the Wrong. B. 3. 78. b. 5. 2 p. 31, 80. b. 6. 58; b. 8. 133. See Tit. *Collusion*; *Dower*; and *False Imprisonment*.

Where Dower of a Woman is not good, because participant of the Crime, and consenting to the Wrong. B. 2. 67. b. 3. 78. b. 5. 2 p. 31. b. 6. 58. b. 8. 101, 133. See Tit. *Dower*.

Where a Recovery shall be falsified, because he that recovers was participant of the Crime, and consenting to the Wrong, &c. See Tit. *Collusion*, and *False Recovery*.

Where Contract of Goods shall not be changed in Market open, because he that bought them was participant of the Crime, and &c. See Tit. *Contract*.



Where a Man in Execution shall not be discharged of Execution, tho' at large, because participant of the Crime, and Escape by his own Wrong. See Tit. *Escape*.

Where the Lord may distrain the Tenant's Beasts out of his Land, because he was participant of the Crime, and chased them out of it, &c. See Tit. *Distrains*.

Where Age shall not be granted to an Infant, because he came to the Land by his own Act and Purchase. See Tit. *Age*.

Partition and Coparceners.

Where two Coparceners, or the Aunt and Niece shall join in *Cessavit*, or not. B. 8. 118. See Tit. *Joining in Action*.

Where Two Coparceners, or their Issues, or the Aunt and Niece shall join in a Writ of Formedon, or not. B. 8. 87. See Tit. *Formedon*.

Where Age shall be granted in *Partitio facienda*. B. 6. 4. See Tit. *Age*.

Where one Coparcener shall have Aid of another to recover for the equal Portion, and where she shall have Aid of a Stranger, or a Stranger of her. B. 4. 122. b. 8. 85. See Tit. *Aid*.

Where Recovery in Value shall be by one Coparcener against another, and of what Lands, and what not. B. 4. 122. See Tit. *Recovery in Value*.

How Partition shall be made by Writ, and who are compellable by Writ, to make Partition by Statutes, and who by Common Law. B. 6. 12, 13. See Tit. *Statutes*, 31 H. 8. c. 1.

Where and how Partition is of an Advowson, and where without Deed. B. 1. 87. b. 3. 22. b. 8. 79.

Where upon Partition of a Manor the Advowson remains in common as appendant, and where contrary. B. 8. 79. See Tit. *Appendant*.

Where the eldest Coparcener shall present to a Church, or he that has her Estate. B. 3. 22. See Tit. *Presentment to a Church*.

Where Entry betwixt Coparceners

shall not be taken away by Discent, because of Privy of Blood. B. 1. 95, 98, 102, 137. b. 3. 61, 62. See Tit. *Entry congeable*.

Where Partition by the Husband and Wife, and other Coparceners binds the Wife after her Husband's Death. B. 9. 85.

Where Grant of Rent, or Reservation is good in Allowance of Surplusage, upon Partition, and how it shall enure and be good without Deed. B. 3. 22. b. 5. 2p. 8.

Where the eldest Coparcener shall do the Suits and Services due to the Lord, and the others contribute, and how it shall be done, and what Remedy if it be not done. B. 6. 1, 2. b. 9. 34. See Tit. *Statutes*, *Marib*. c. 9.

Where Partition shall be by Judgment in Assize, or &c. betwixt Joint-Tenants, or &c. without the Writ of *Partitio facienda*. See Tit. *Join-Tenants*. B. 6. 12.

Where Partition for a certain Time is good. B. 1. 87.

Where upon Partition of an Advowson the eldest Daughter shall present to the Church as the eldest Daughter should. B. 3. 22.

Where one Coparcener shall not darrein a Warranty without her Companion. B. 4. 122. b. 8. 75. See Tit. *Aid*.

Where Warranty is lost by Partition betwixt Coparceners and Joint-Tenants, or not. B. 6. 12.

Where Partition betwixt Joint-Tenants, or Tenants in Common is good with, or without Deed. B. 4. 73. b. 6. 12, 13.

Where Partition betwixt Joint-Lessees for Years or Life is good, and after he in Reversion shall enter upon the Death of one in his Part. B. 4. 73. See Tit. *Join-Tenants*.

Where Rent, Common, Way, or &c. are extinguished or suspended by Possession in Common, Joint-Tenancy, Coparcenery, and where then it shall be revived after. See Tit. *Extinguishment*, and *Revising*.

Where a Stranger to the Partition shall have the same Advantage with him

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him who was Privy in Blood, and Party to it, or not. B. 3. 22. b. 6. 1. b. 8. 101. See Tit. *Aid*, and *Courtesy*.

Of a Manor, and upon what Partition every of them shall have a Manor. See Tit. *Manor*.

Where Partition imports a Warranty, and who shall take Advantage of it, who not. B. 4. 121. See Tit. *Warranty*, and *Exchange*.

Where Partition implies a Condition, and who shall take Avail of it, who not. B. 4. 121.

Where Partition avoided in Part shall be avoided in the whole. B. 4. 121.

Where and how Recovery in Value shall be by one Coparcener, shall be against for the equal Portion. See Tit. *Aid*, and *Recovery in Value*.

*Q. Impedit* by Coparceners, and where the Release of one bars not the others. B. 5. 2 p. 97. See Tit. *Join-Tenants*.

Betwixt the Bastard and Mulier, and what follows upon it. B. 8. 101. See Tit. *Bastardy*.

Judgment in *Partitioe facienda*, and what follows upon Partition awarded. B. 11. 40. See Tit. *Judgments*.

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Justices of Peace, and their Authority. B. 4. 46, 47. b. 5. 2 p. 59, 71, 72. b. 7. 12. b. 8. 120. b. 9. 118, 119. b. 10. 53, 54. b. 11. 62. See Tit. *Justices*, and *False Imprisonment*.

Where and who shall have Surety of the Peace, or good Behaviour, and against whom they are grantable. B. 5. 2 p. 59. b. 11. 98.

Where and what Act is Breach of the Peace, what not. B. 8. 37. b. 9. 51. See Tit. *Condition*.

Where in Election of him that arrests a Man by Warrant of a Justice of Peace to carry the Party arrested to what Justice he pleases. B. 5. 2 p. 59. See Tit. *Arrest*, *Election*, and *False Imprisonment*.

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*Peremptory.*

Where Non-suit in *Q. Impedit* is peremptory, and Writ to the Bishop shall be awarded. B. 7. 27.

Where Discontinuance of Process in *Q. Impedit* is peremptory, and Writ to the Bishop shall be awarded. B. 7. 27. See Tit. *Writ to the Bishop*.

*Perjury.*

What is Perjury in Witnesses, and how punishable. B. 5. 2 p. 99. b. 11. 13. See Tit. *Statutes*, 5 *El.* c. 9.

What is Perjury in the Party himself, and how punishable. B. 5. 2 p. 99 twice. b. 11. 98. See Tit. *Statutes*, 5 *El.*

In what Court, and before what Justices Perjury is to be examined and punished. B. 5. 2 p. 99. b. 11. 13. See Tit. *Prohibition*.

What is Perjury in Jurors, and how punishable, or not. B. 11. 13. See Tit. *Attaint*.

What is Perjury punishable by the Statute 5 *El.* c. 9. what not. B. 5. 2 p. 99. b. 88. 13, 98.

Where Prohibition lies upon a Suit in Court-Christian for Perjury. See Tit. *Prohibition*.

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Where and how a Writ shall be maintained by Pernancy of Profits against Join-Tenancy pleaded. B. 1. 123, 131. See Tit. *Maintenance of Writs*.

How a Writ may be maintained by Pernancy of Profits against Disclaim pleaded. B. 4. 131. See Tit. *Maintenance of Writs*.

What Issue shall be taken where a Writ is maintained by Pernancy of Profits, and where the Pernancy shall be traversed, or not. B. 5. 2 p. 77. See Tit. *Issue joined*.

The Statutes giving the Plaintiff or Demandant Maintenance of Writ against the Taker of the Profits, &c.

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and

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and to what Actions and Persons they extend, and how they shall be construed and intended. 1 R. 2. c. 9. 4 H. 4. c. 7. 11 H. 6. c. 3. 5. 1 H. 7. c. 1. 4 H. 7. 24. B. 1. 123. b. 5. 2 p. 77, 131. b. 11. 62. See Tit. *Maintenance of Writ.*

Where Assize of Rents, or &c. is against the Land-Tenants (the Pernour not being named in the Writ) all the Land-Tenants must be named. See Tit. *Assize.*

Where the Pernor of the Profits of the Land shall vouch, and in what Actions, what not. B. 11. 62.

Where the Statute of 1 H. 7. c. 1. which gives a Formedon to be maintained against the Pernor of the Profits extends to other Actions, or not. B. 11. 62. See Tit. *Statutes.*

*Per qua servitia.*

Where *Per qua servitia* lies against two for Doubt of the Tenant, and where both shall attorn, where one only, &c. B. 2. 67. See Tit. *Attornment.*

Where Age shall be granted. See Tit. *Age, and Attornment, and Quid Juris clamab.*

*Petition.*

Where a Man shall be put to his Petition, the King being intituled by Entry, or other Matter below only without Office, or &c. or not. B. 1. 50, 133. b. 2. 53. b. 4. 55, 56, 58. b. 7. 32. b. 8. 76, 172. b. 9. 96, 98. See Tit. *Entry congeable.* b. 7. 19.

Where a Man is put to his Petition where the King is intituled by single Matter of a Record, as Office, Deed inrolled, or &c. B. 1. 158, 159, 173. b. 2. 50, 53. b. 4. 54, 55, 58. b. 7. 19. See Tit. *Monstrance of Right.*

Where a Man shall be put to his Petition, where the King is intituled by a double Matter of Record, as Office, or other Matter of Record, as Attainder, or &c. B. 1. 50. b. 4. 57. See Tit. *Traverse to an Office, &c.*

Where Petition is to be to the King

after Feoffment, Grant, or &c. or not; but Entry shall be lawful by him that has Right. B. 1. 173. b. 4. 56, 59. b. 7. 32. See Tit. *Entry congeable.*

Where Petition to the King shall be for Chattels and Goods, or not. B. 4. 56. b. 5. 2 p. 90.

Where Petition shall be to the King to be indowed, and where the Woman shall be indowed in the Chancery. See Tit. *Dower.*

*Physicians and Surgeons.*

Annuity granted to a Physician for his Counsel given, and to be given, how to be construed, and by what Acts and Means gone and extinguish'd. B. 7. 10, 28. b. 9. 50. See Tit. *Annuity, and Acts.*

Statutes concerning Physicians, &c. and the Exposition of them. 3 H. 8. c. 6. 11. 14 H. 8. c. 5. 32 H. 8. c. 40, 42. 34 H. 8. c. 8. 1 M. c. 9. b. 8. 116, 109 to 120.

*Pigeons.* See Tit. *Doves.*

*Piscary.*

Assize of a Piscary, and the Plaint. B. 4. 48. See Tit. *Assize.*

Form of the Writ of Trespass for fishing in his several Piscary, and the Count in it, and of the Fishes taken. B. 5. 2 p. 35. See Tit. *Trespass.*

*Piepowders.*

Court of Piepowders incident to a Fair, or Market, and of what Matters and Contracts it has Jurisdiction. B. 6. 12, 20. b. 10. 73. See Tit. *Courts.*

Form and Manner of suing in the Court of Piepowders. See Tit. *Courts.*

Who is Judge in the Court of Piepowders. B. 6. 12.

Court of Piepowders, a Court of Record. B. 6. 20.

*Place and County.*

In what Place and County Writs shall be brought. B. 7. 1, 2. See Tit. *Writ.* Where

Where a Writ shall be maintained for Things rising in Two Counties, or not. B. 7. 3. See Tit. *Writ*, and *Affize*.

Where the Place shall be alleged after Issue joined to make the Vernew come for the Trial. B. 6. 47. b. 7. 26, 27. b. 5. 2 p. 60. See Tit. *Affize*, and *Trial*.

Where a Condition to be performed at one Place may be performed at another. B. 4. 72, 73. See Tit. *Condition*.

How a Condition is to be performed, no Place being expressed. B. 4. 73. See Tit. *Condition*.

Where a Condition shall be performed by being ready at the Day and Place, and by Tender, and what is a good and sufficient Tender. B. 5. 2 p. 114. b. 9. 79. See Tit. *Condition*.

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Where *Præmunire* lies for suing to the Court of Rome for spiritual Causes, or Advancing the Pope's Authority. B. 5. 12, 16, 17, 19, 20, 22, 23, 24, 26. b. 6. Epist. 10 H. 2. there. b. 11. 34.

Where *Præmunire* lies against him who purchases the Pope's Bulls, and what is a Papal Provision of the Advowson of a Church, where, and what not. B. 5. 5, 17, 24, 25. b. 7. 14.

Judgment in *Præmunire*, and what shall be forfeited by him that incurs it. B. 5. 16, 19, 23, 24, 26. B. 9. 74. b. 11. 63.

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Where the King shall have his Prerogative to have the Wardship of Lands held of other Lords, as well as those which are held of himself. B. 9. 16, 133. See Tit. *Statutes, Prerogative, c. 1*.

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Where the King shall have Prerogative to have Wardship, because of a Reversion descended to the Heir, and Primer Seisin, and Livery to be sued, or not, &c. B. 2. 93. b. 9. 126, 129, 132. See Tit. *Livery, and Ward, and Statutes, 32 H. 8. c. 1. 34 H. 8. c. 5*.

Where the King shall have Prerogative to have the Wardship, or Primer Seisin of Lands to which an Infant has Right or Title to enter, or not. B. 2. 60. b. 7. 7. See Tit. *Ward, b. 3. 60*.

Where the King shall have Prerogative to have the Wardship of the Heir of him who had an Estate of Inheritance jointly with another who survives. B. 8. 163. b. 9. 126. See Tit. *Ward, and Statutes, 32 H. 8. c. 1*.

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Where the King shall have Prerogative in the Advowson of a Church to present to it, and where Lapse prejudices him nor; nor is Plenarty in a Plea against him. B. 3. 78. b. 5. 2p. 14, 15. b. 6. 29. b. 7. 28. b. 9. 132. See Tit. *Statutes, Prerogative, c. 8. and Plenarty, Q. Impedit, and Presentment to a Church*.

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Where the King has his Prerogative in Tenures, and where he may give Land to be held of another, and where he ought. B. 6. 6. See Tit. *Tenure*, *Reservation*, and *Reviuing*.

Of the King in Escheats, and where he shall have the Escheat of Lands held of other Lords, as well as of himself. B. 7. 20. b. 10. 112. See Tit. *Escheat*, and *Treason*.

Where the King by his Prerogative shall have Year, Day, and Waste of Lands upon Felony, and how, and from what Time. B. 4. 124. b. 8. 170. See Tit. *Forfeiture*. b. 1. 124.

Of the King that no Negligence nor Length of Time shall prejudice him, or contrary. B. 4. 23, 127. b. 6. 29. b. 7. 28. See Tit. *Laches*, and *Custom*.

Of the King that no Franchise shall hold against him. B. 1. 18, 33. b. 5. 2 p. 91, 92. See Tit. *Franchise*, *Non omittas*, and *Custom*.

Of the King that no Custom, or Prescription shall hold Place against him, nor bind him. B. 4. 23, 30. See Tit. *Custom*.

Of the King to have an Action of Account against Executors. B. 10. 114. b. 11. 89, 90, 91. See Tit. *Account*.

Of the King to distrain for Rent-Fee. B. 5. 2 p. 56. See Tit. *Distrain*.

Of the King in obtaining his Debts, and personal Duties accruing to him by Outlary, or other Means, and how he shall come to them by his Prerogative. B. 3. 12. b. 5. 2, 38, 90, 92. b. 7. 19, 20, 21, 22. b. 8. 171.

Of the King to have an Action of Debt upon simple Contract, and the

Defendant shall not have his Law. B. 4. 95. See Tit. *Ley*.

Of the King to have the Goods and Chattels of his Predecessor, and not the Executors. B. 9. 97. b. 11. 91. See Tit. *Chattels*, *Executors*, and *Heir*.

Of the King to enter for a Condition broken without Demand of the Rent. B. 4. 73. b. 5. 2 p. 56.

Of the King that he cannot be disseised of his Lands, nor outed out of Possession, and where contrary. B. 6. 29, 30, 49, 50. b. 9. 26, 28. See Tit. *Presentation to a Church*, *Plenary*, and *Q. Impedit*.

Of the King that he cannot be a Disseisor, nor impleaded by *Præcipe quod reddat*, but Suit shall be to him by Petition, and when this Prerogative began. B. 4. 55. b. 6. 51. b. 7. 26, 32. See Tit. *Petition*, and *King*.

Where the King or Queen shall have no Prerogative in their Writs, but they shall abate in Default of Form, false Latin, or &c. B. 7. 30, 31. b. 8. 26, 156. See Tit. *Writ*, and *Amendment*.

Of the King and Queen, not to find Pledges of Prosecution. B. 8. 62. See Tit. *Pledges*.

Of the King and Queen, not to be amerced upon Non-suit, or &c. B. 8. 61. See Tit. *Amercement*.

Of the King to join in Demurrer, or Issue, or to waive the Demurrer and Issue, and take new Issue, or Demurrer. B. 5. 2 p. 104.

Where the King's Prerogative is to take double, or treble Issue. B. 1. 18, 32. b. 9. 99. See Tit. *Double Plea*, and *Issues joined*.

Of the King that no Man shall be Join-Tenant, or Tenant in Common with him, but that he shall have the whole Land, Debt, or &c. B. 5. 2 p. 56. b. 9. 129.

Of the King to sue in what Court he pleases. B. 2. 44. See Tit. *Jurisdiction*. B. 5. 16. *Calvin's Case*.

Of the King that his Grants, &c. shall be taken by Intendment, and the best shall be taken for him. B. 9. 123. See Tit. *Tenure*.

Of the King that the eldest Daughter shall inherit alone, and be Heir, notwithstanding the false Blood. B. 7. 12. See Tit. *Discent*.

Where the King shall not have Prerogative in his Age, but his Non-age shall prejudice him. B. 5. 2 p. 27. b. 7. 10, 12. See Tit. *Age, Corporation, Infant, and King*.

Of the King that a Villein shall not be seized in his Presence, nor if he has continued in the King's ancient Demean a Year and Day. B. 5. 2 p. 107. See Tit. *Villenage*.

Of the King that he cannot hold of another, nor of himself. B. 1. 47. b. 2. 15. b. 6. 3, 9, 129. See Tit. *Tenure*.

Of the King in his free Chapels. B. 5. 15. twice. See Tit. *Ordinary*.

Of the King to give Land in Fee upon Condition not to alien. B. 5. 2 p. 56. See Tit. *Condition*.

Of the King that Aid shall be granted from him in Assize. B. 8. 50. See Tit. *Aid of the King*.

Of the King to make Force in Coins current within the Realm by Proclamation. B. 5. 2 p. 114. See Tit. *Proclamation*.

Of the King to make Denizens. B. 7. 25. See Tit. *Denizen*.

Of the King in Whales and Sturgeons. B. 7. 16. See Tit. *Statutes there, Prerogative, c. 36*.

Of the King in Swans and Cygnets. B. 7. 16, 17. See Tit. *Swans*.

Of the King that his Title shall be preferred where it concurs with the Title of a common Person. B. 4. 55.

Of the King to have Ecclesiastical Jurisdiction, and grant Commissions in Causes Ecclesiastical, and exempt from the ordinary Jurisdiction. B. 5. 8, 9, 10, 14. See Tit. *Exemption*.

Of the King that his Tenant cannot alien without Licence, and where it holds, and he cannot alien, or contrary. See Tit. *Licence*.

Where the King shall have Election of his Tenant, upon Alienation in Fee, or Fee-Tail, by his Prerogative, and have the Wardship of the

Heir of one, or the other. B. 2. 80, 81. See Tit. *Ward*.

Of the King to have Wreck of the Sea. See Tit. *Wreck*.

Of the King to have Treasure found, and where he shall have it. See Tit. *Treasure found*.

Of Intrusions upon his Possession, and what is Intrusion, what not. See Tit. *Intrusion, and Entry congeable*.

To have Forfeiture of Lands and Goods upon Attainder of Felony, or Treason. See Tit. *Forfeiture, Thing in Action, and Treason*.

To have a Corody. See Tit. *Corody*.

Of the King upon Tenure by Priority and Posteriority, he shall have the Wardship notwithstanding it. See Tit. *Ward, and Priority*.

Of the King in Distress, and in what Place and Lands he or his Officers may distrain. See Tit. *Distress*.

Of the King to grant a Thing in Action, and what Thing in Action he may grant, what not. See Tit. *Grant of the King, and Thing in Action*.

Of the King that upon a Feoffment, Grant, or &c. Things appendant, or &c. pass not by the general Words with the Appurtenances, without special Words. See Tit. *Grant of the King*.

Of the King that he cannot be seized to another's Use. See Tit. *Uses*.

Of the King that by his Seisin and Possession, Customs and Franchises are gone and extinguished. See Tit. *Extinguishment*.

Of the King to seize the Lands of Aliens, and Priors Aliens. See Tit. *Alien born*.

Of the King that no Man may alien in Mortmain without his Licence. See Tit. *Licence*.

Of the King that an Appropriation of a Church cannot be without his Licence. See Tit. *Appropriation*.

Of the King that he cannot grant Land, or &c. before Office found. See Tit. *Office before &c.*

Of the King that he may make a Sheriff without Election, and grant the Office in Fee. See Tit. *Election*.

Of the King to dispense with a Statute, and grant a Thing prohibited by Statute. See Tit. *Charter*, and *Grant of the King*.

Of the King not to give Notice to the Patron upon the Avoidance of a Church, &c. See Tit. *Notice*.

Of the King that no Man may enter upon his Possession without Livery, Petition, or &c. and where this Prorogation shall take Place, where not. See Tit. *Entry congeable*, *Intrusion*, and *Livery*.

Of the King that he may grant a Thing not in him at the Time, but which possibly may accrue to him. See Tit. *Grant of the King*.

Of the King to grant Exemptions, &c. and in what Cases such Grants are good. See Tit. *Exemption*.

Of the King not to be bound by Statutes, and which bind him, which not; and of which he shall take Advantage, tho' not named in them. See Tit. *Statutes*.

Where the King's Patentee, or Grantee shall have Avail of his Prerogative, or not. B. 2. 44. b. 4. 55, 56, 73. b. 5. 2 p. 56. See Tit. *Grant of the King*, and *Petition*.

Where the Common Law has the Prerogative, and shall be preferred, where that, and Statute Law, or Custom concur. See Tit. *Common Law*.

Where the Queen shall have Prerogative, and in what Cases, as well as the King, or not. B. 4. 23. b. 7. 30, 31. b. 8. 61. See Tit. *Aid of the King*.

Of the King and Queen, the King may give Land to the Queen, and the dispose of them without the King. B. 4. 23. b. 6. Epist. there. b. 9. 97.

Of the Queen. See Tit. *Pledges*, and *Amercement*, and above.

Of Peers of the Realm, and what they shall have, what not. See Tit. *Baron*, and *Baroness*, and *Name*.

*Prescription*. See Tit. *Custom*.

What Estate in Lands, &c. he must have that will prescribe, and who may prescribe, who not. B. 4. 23, 31, 32. b. 6. 2, 43. b. 5. 2 p. 78.

b. 6. 60. b. 8. 64, 66. b. 9. 58, 111, 113.

Where Inhabitants may prescribe. B. 4. 32. b. 6. 60, 61.

In what Persons, and of what Estate Prescription may be alledged; in what not. B. 5. 2 p. 72, 73.

Several Forms of Prescriptions, and where they are general, and where special. B. 2. 43. b. 4. 32, 38, 87. b. 6. 60, 66. b. 8. 64, 79. b. 11, 14, 15.

Difference betwixt Prescription and Custom. B. 4. 32. b. 6. 60, 61. b. 7. 16, 18.

Where Prescription by Reason of an Office is good. B. 4. 23. b. 6. 60, 61.

Where Prescription by a *Que estate* is not good without shewing the Deed of Assignment, and where contrary. B. 2. 45. b. 4. 36. b. 5. 2 p. 72. b. 10. 59. See Tit. *Que estate*.

Where Prescription to have Franchises, or Liberties, is good without Allowance, or not; and what Allowance is good and sufficient. B. 9. 29. See Tit. *Grant of the King*, and *Trial*.

Where Prescription in the Negative, or in the Affirmative, with a Negative is good, or not. B. 2. 44. b. 8. 125. See Tit. *Tithes*.

Where Prescription against the King is good, and Custom shall bind him, or not. B. 1. 18, 33, 50. b. 3. 32, 33. b. 4. 23, 30. b. 5. 2. 2 p. 92, 93, 109. b. 9. 20, 30. and below. See Tit. *Prerogative*, *Custom*, and *Franchise*.

Form of pleading Prescription, or Custom. B. 2. 43, 45. b. 4. 32. 38. b. 5. 2 p. 78. b. 6. 60, 65. b. 8. 64, 78. b. 11. 14, 15.

Against a Statute, and the Form of pleading it. B. 5. 2 p. 108. b. 8. 129.

Where Prescription in a Thing, or to do, or have a Thing which of common Right or Law of the Realm he may have, or do, is not good. B. 4. 37, 38. b. 9. 75. b. 11. 85. See Tit. *Custom*.

Where

Where Prescription to have Cogni-  
fance of a Plea, or hold Pleas, is  
good, or not. B. 8. 133. b. 9. 29.

Annuity by Prescription, and Bar  
in it, and what is good, what not.  
B. 8. 137, 138. See Tit. *Annuity*.

To have a Warren, or Chase, and  
where good, or not. B. 11. 86. See  
Tit. *Forest*.

To have a Fair, or Market, and  
where good. B. 5. 2 p. 83. b. 8. 127.  
See Tit. *Fair, and Market*.

Where and to what Intents and  
Purposes a Corporation may be by  
Prescription, to what not. B. 4. 65,  
77. b. 10. 29, 30. See Tit. *Corporation*.

To have Common of Pasture, or  
to use it, and what is good, what not.  
B. 4. 32, 37. b. 5. 2 p. 78. b. 6. 60. b.  
8. 79. See Tit. *Custom, Common, and  
Appendant*.

To have Common of Estovers, and  
where, and what is good, what not.  
B. 4. 32, 87. b. 5. 2 p. 17, 24. b. 10.  
112. See Tit. *Common, and Affize*.

To have Common of Pitcary, and  
where, and what is good. B. 8. 84, 48.  
See Tit. *Affize, and Common*.

To have Common of Turbary. B. 8.  
48, 50. See Tit. *Affize, and Common*.

To have Leet and View of Frank-  
pledge. B. 8. 38. b. 11. 14. See Tit.  
*Leet, and Amercement*.

To have Hariot, and what shall be  
said Hariot, Custom, &c. See Tit.  
*Harlots*.

Where a Man cannot have Chat-  
rels of Felons and Fugitives by Pre-  
scription. See Tit. *Franchise*.

To have Treasure found. See Tit.  
*Treasure found*.

To have Wreck of the Sea. See  
Tit. *Wreck of the Sea*.

To have Waif and Estray. See Tit.  
*Waif, and Estray*.

Where a Sanctuary cannot be  
claimed by Prescription. See Tit.  
*Sanctuary*.

To have Tithes, and who may  
claim them by Prescription, who not.  
See Tit. *Tithes*.

To be discharged of Tithes, and  
where good, or not. See Tit. *Tithes*.

To waste, without being impeached  
for it. See Tit. *Copyhold*.

Touching Copyholds. See Tit. *Co-  
pyholds*.

To have Foldage of a Stranger's  
Beasts, where, or not. B. 8. 125. See  
Tit. *Customs*.

To have the Cygnets of Swans air-  
ing in his Land, and what is good.  
See Tit. *Swans*.

To have Fees appurtenant to an  
Office, and what is good, what not.  
See Tit. *Fees, and Extortion*.

To make By-laws, and what is  
good, what not. See Tit. *By laws*.

To have Deodands not good. See  
Tit. *Crown, and Deodands*.

To have Goods of a Felon of him-  
self, not good. B. 5. 2 p. 110. See Tit.  
*Crown, Forfeiture*.

Where the Heir shall not be charged  
in a Writ of Annuity by Prescription.  
See Tit. *Annuity*.

To amerce for Not-appearance, or  
in Default of Suit to the Court. See  
Tit. *Amercement*.

To distrain for Amercements, and  
where good and needful. See Tit. *A-  
mercements, Distress, and Leets*.

To have a Bake-house only in a  
Town, or Place, and where good.  
B. 8. 125.

Of Monopolies, and where, and  
what is good, what not. See Tit. *Mo-  
nopolies*.

Where Prescriptions gone, lost, and  
destroyed by the King's Grant, or  
by Recovery and Judgment. B. 6.  
45. See Tit. *Annuity*.

Where it shall be gone and exting-  
uish'd by the Change and Alteration  
of the Name of the Thing, to which,  
or not. See Tit. *Custom, Extinguish-  
ment, Corporation*.

Where it is extinguisht, gone,  
and lost by the King's Seisin. See Tit.  
*Extinguishment*.

Where Prescription shall be tra-  
versed, and Issue joined upon it. B.  
11. 10, 13. See Tit. *Issues joined*.

What is good Evidence upon Issue  
taken upon Prescription. B. 11. 10,  
13, 14. See Tit. *Evidence*.

*Presentation to a Church.*

Where the King shall present to a Church for Lapse, and where he shall lose the Presentation by his Negligence. B. 5. 14, 15. b. 6. 29. b. 7. 28. See Tit. *Prerogative*.

Where the eldest Daughter shall have the first Presentment to a Church, and where he that has her Estate, as her Husband, Tenant by the Courtesy, or *&c.* B. 3. 22.

Where Presentment to a Church shall be by Turns. B. 3. 22. b. 5. 2 p. 102.

When Presentment to a Church, and in what Person alledged, is sufficient Seisin to maintain a *Q. Impedit*, what not. B. 5. 2 p. 57, 98. b. 6. 57. See Tit. *Q. Impedit*.

Where Presentment to a Church by the King, Lessee for Years, for Life, Tenant in Dower, or Courtesy, makes no Title to him in the Reversion. B. 5. 2 p. 57, 98. b. 6. 57. See Tit. *Q. Impedit*.

Where the King shall present to a Church, because the Temporalties of a Bishop are in his Hands. B. 4. 75. See Tit. *Prerogative*.

Where the Count in a *Q. Impedit* is not double by alledging Two Presentments to a Church. B. 5. 2 p. 98. See Tit. *Darrein Presentment*, and *Q. Impedit*.

Where the Bishop's Collation puts not a Man out of Possession of his Church. B. 6. 29, 30, 50. See Tit. *Q. Impedit*.

Where Presentation by the King puts not a Man out of Possession of a Church. B. 6. 51.

Where Usurpation and Presentment to a Church puts an Infant out of Possession. B. 6. 49, 50. b. 11. 33. See Tit. *Infant*, and *Q. Impedit*.

Where Usurpation and Presentment to a Church upon Tenant in Tail, Lessee for Years, or *&c.* puts not him in Reversion out of Possession of a Church. B. 6. 50, 51. See Tit. *Q. Impedit*, and *Statutes*, W. 2. c. 5.

Where Presentment to a Church

in Time of Vacation of the See of a Bishop, *&c.* puts not the Bishop, or *&c.* out of Possession. B. 6. 50. See Tit. *Q. Impedit*.

Where Usurpation upon the King, and Presentment to a Church puts him out of Possession, or not. B. 6. 29, 30, 49. b. 7. 26, 28. See Tit. *Disseisin*, and *Prerogative*.

Where Usurpation, or Presentment to a Church in Time of War puts not a Man out of Possession of a Church. B. 1. 99. b. 2. 93. b. 6. 30.

Where the King shall have Presentment to a Church, because of Alienation in Mortmain. B. 7. 26. See Tit. *Mortmain*.

Where Presentment to a Church puts not out of Possession of the Church, but is void, because by Collusion. B. 3. 78. See Tit. *Collusion* in the like.

Where and what are sufficient Causes for a Bishop to refuse the Presentee to a Church. B. 4. 17. b. 5. 28. 2 p. 57, 58, 102. See Tit. *Q. Impedit*.

Where a Man shall present to a Church by Grant of the next Advowson, and how, *&c.* See Tit. *Advowson*, and *Q. Impedit*.

Where the Brother of the half Blood shall present to a Church, and have the Advowson of it, and not the Sister of the whole Blood. See Tit. *Discent*.

To whom the Advowson of a Vicarage belongs, and who shall present to it. See Tit. *Appendant*, and *Q. Impedit*.

Where a Man shall not present to a Church till he has recontinued the Manner, to which, *&c.* See Tit. *Re-mitter*.

Where a Bishop shall not present or collate to a Church by Lapse, unless he gives Notice to the Patron, and where he must give Notice to him, where not. See Tit. *Notice*.

Where a Patron shall present to a Church, and have the Writ to the Bishop after Six Months, or not. See Tit. *Writ to the Bishop*, and *Q. Impedit*.

Where

*Presentments in Courts. Presence, &c. Precedents. Primer Seisin. Principal, &c.*

Where Presentation to a Church by Prior and Covent, &c. gains the Patronage, and puts the Patron out of Possession of the Church, or not. See Tit. *Quare Impedit*, and *Appropriation*.

Where the King shall present to a Church for the Alien born. See Tit. *Q. Impedit*.

*Presentments in Courts.*

In Court-Leets, and what Things are inquirable and presentable in them, or not. B. 5. 2 p. 73, 104, 112. b. 9. 112, 113. See Tit. *Leets*.

What Things are presentable, and to be inquired of in the Sheriff's Turn, what not. B. 6. 20. See Tit. *Turn of the Sheriff*.

Of Presentments, or Inditements of Trespases, and other personal Misdemeanors, and Bar in them. B. 9. 113, 118. See Tit. *Enditements*.

To make, or repair Ways, scour Ditches, or &c. and traverse to them, or not. B. 8. 46, 47. b. 9. 112, 113. See Tit. *Enditements*.

*Presence and Absence.*

Where a Gift to a Man absent at the Time of a Gift is good. B. 3. 27. See Tit. *Gift*, and *Property*.

Where Feoffment to many, and Livery to one who is present, all shall take, tho' absent. B. 3. 26, 29. b. 5. 2, 94. See Tit. *Feoffments*.

Where Feoffment, and Livery and Seisin are void by Presence of others upon the Land, at the Time of the Livery and Seisin, or not. B. 3. 23, 31, 32. b. 5. 2 p. 113, 114. b. 6. 69. See Tit. *Feoffments*.

Where a Man is principal in Case of Homicide, and Death of a Man by his Presence, and where accessory by being absent. B. 4. 42, 44, 45, 46. b. 9. 67. b. 11. 5. See Tit. *Crown*.

Where a Villein is enfranchised by being in the King's Presence. B. 5. 2 p. 107. See Tit. *Villanage*.

Where Power and Authority of a Court is suspended, and ceases by

Presence of another of more high Power and Jurisdiction. B. 9. 118. See Tit. *Courts*, and *Commissioners*.

Where the Court in Absence of the Ordinary may allow, or disallow Clergy. B. 5. 26, 27.

Where Protection shall be allowed to a Man absent. See Tit. *Protection*.

*Precedents.*

Where the Courts and Judges of the King ought to be guided by Precedents, and must direct their Judgments by, and according to them, or not. B. 1. 42. b. 2. 16, 17, 61. b. 3. 12. b. 4. 32, 33, 41, 53, 54, 57, 74, 93, 94. b. 5. 32. 2 p. 35, 39, 41, 42, 44, 68, 73, 85, 122, 123. b. 6. 6, 62, 75 twice. b. 7. 11, 23, 24, 30, 31, 33, 34. b. 8. 18, 19, 82, 129. b. 9. 11, 34, 74, 118. b. 10. 70, 75. b. 11. 35, 90.

*Primer Seisin*. See Tit. *Prerogative*.

*Principal and Accessary.*

Where a Woman may have and maintain Appeal of the Death of her Husband against the Principal only, or against the Principal and Accessary together. B. 4. 42, 43, 47, 48. b. 7. 13. See Tit. *Appeals*.

Who shall be said Principal in the Death of a Man, or other Felonies, who not. B. 4. 42, 46. b. 9. 67. b. 11. 5. See Tit. *Crown*.

Who shall be said Accessary before, or at the Time, &c. who not. B. 4. 44, 45. See Tit. *Crown*.

Where and when the Accessary shall be arraigned, and put to Answer, and when not. B. 4. 43, 44, 46, 47. b. 9. 68, 117, 118, 119. See Tit. *Crown*.

Where Acquittal, or other Discharge of the Principal is a Discharge of the Accessary. B. 4. 43, 44. See Tit. *Crown*.

Where of Office the Court shall try the Plea of the Accessary before the Plea of the Principal. B. 9. 119. See Tit. *Office of Court*, and *Crown*.



Priority and Posteriority.

Where the Lord of whom the Tenant holds by Priority, shall have the Wardship of his Heir, and what is Priority. B. 5. 2 p. 56. See Tit. *Ward*.

Where the King shall have Prerogative to have the Wardship of his Tenant who holds of him by Posteriority, and he shall have the Priority by Prerogative. B. 5. 2 p. 56. See Tit. *Ward*, and *Prerogative*.

Where the King's Grantee shall have the King's Prerogative in Priority and Posteriority. See Tit. *Prerogative*.

*Privilege*. See Tit. *Corpus cum causa*.

For the King's Debtors to sue by *Quo minus*. See Tit. *Quo minus*.

By *Corpus cum causa*. See Tit. *Corpus cum causa*.

*Privies and Privity*.

How many Privies and Privities there are, and the Dependants upon them. B. 3. 13. b. 4. 123, 124. b. 5. 2 p. 17. b. 8. 42. b. 9. 17, 18, 106.

Of Privies in Blood, and the whole Matter concerning it.

Of Privies in Estate as the Assignee, and how they shall have an Action of Debt, and Debt shall be maintained against them. See Tit. *Assignee*, *Arreavages*, and *Extinguishment*.

Where Tenant in Tail after Possibility of Issue extinct shall not attain, but his Assignee shall, because privy in Estate. See Tit. *Tail after*, &c.

Privies and Privity for Attornment, and where needed, and what is sufficient.

Where Action of Waste lies for Privy in Estate by Assignment, and that without Attornment. See Tit. *Waste*, and *Attornment*.

Of Privies in Law by Representation, and who are said Privies in Law, and what Actions they shall have, and what shall be maintained

against them, and what not. See Tit. *Assignee*, and *Executors*, *Administrators*, and *Ordinary*.

Of Privies in Tenure as the Lord by Escheat, and where he shall not take Avail of the Nonage, or Ideocy of his Tenant, or other Weakness. See Tit. *Enfant*, *Entry congeable*, and *Ideocy*.

Where and when Privity shall be betwixt the Lord and his Tenant to make Avowry upon him. See Tit. *Avowry*.

Where Waste lies against Tenant in Dower, or Courtesy, because of Privity. See Tit. *Waste*.

Where a Release is void for Default of Privity, &c. See Tit. *Release*.

Where Surrender is void for Default of Privity, because of a mean Estate. See Tit. *Surrender*.

Of Privity in Fees to Uses, and where Use shall be changed and altered for Default of Privity. See Tit. *Uses*, and *Subpoena*.

Where a Writ of Covenant lies and is maintainable by, or against an Assignee, because privy in Estate, or no. See Tit. *Assignee*, and *Covenant*.

Where every Man is privy to an Act of Parliament, and ought to take Notice of it. See Tit. *Parliament*, and *Notice*.

Where Entry of one Coparcener avails another, and vests the Estate in her, by Reason of Privity, &c. See Tit. *Entry congeable*.

*Probate of Testaments*.

Where Probate of Testament is material, and before what Ordinary to be proved, and where it shall be proved by another than the Ordinary. See Tit. *Testament*.

Where an Executor's Release before Probate of the Testament is good and bars, &c. or not. See Tit. *Releases*.

Where Probate of Testament is not an Estoppel, but the Party may traverse it, and how it shall be tried. See Tit. *Testament*.

*Procedendo.*

Where *Procedendo* ſhall be granted after Aid prayed of the King, &c. and where the Judges will not proceed, unleſs it be directed to them. B. 8. 23. b. 9. 16. See Tit. *Aid of the King.*

What the Juſtices may do upon *Procedendo* in a Plea, and how long they may proceed upon it. B. 4. 57.

Where after *Procedendo* in the Plea the Party muſt ſue a *Procedendo* to Judgment, or not; but they will proceed to Judgment without it. B. 4. 57. b. 8. 23.

Where and when it ſhall be granted upon a Plea removed by *Corpus cum cauſa*. B. 4. 18. b. 5. 2 p. 63. b. 11. 99. See Tit. *Corpus cum cauſa.*

*Proceſſs.*

What Proceſſs ſhall iſſue in an Action of the Caſe. B. 10. 72. See Tit. *Action of the Caſe*, and *Stat. 19 H. 7. c. 9.*

What Proceſſs iſſues in a Writ of Account. B. 3. 12. See Tit. *Stat. W. 2. c. 11.*

What Proceſſs iſſues in Debt. B. 3. 12. b. 5. 2 p. 88. See Tit. *Statutes, 25 E. 3. c. 17.*

What Proceſſs iſſues in Ravifhment of Ward. B. 9. 72. See Tit. *Statutes Merton. c. 6.*

What Proceſſs iſſues in Aſſize of Novel Diſſeiſin with Force. B. 5. 2 p. 88.

What Proceſſs iſſues in a Writ of Rediſſeiſin, or Poſt Diſſeiſin. B. 5. 2. p. 88. See Tit. *Stat. Merton. c. 3.*

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What Proceſſs iſſues, or is to be awarded upon Office, or Preſentment

traverſed; what, and how, when they are found. B. 1. 162. b. 5. 2 p. 4, 92.

Of Outlawry, and in what Actions, and againſt whom it lies, in what, and againſt whom not. See Tit. *Exigent.*

Where to be awarded with a *Non omittas*. See Tit. *Non omittas.*

Where a Man may appear freely without Proceſſs, and anſwer. See Tit. *Responder, Joining in Aid, and Voucher.*

Of *Venire facias* againſt the Inqueſts, &c. See Tit. *Enqueſt, and Venire facias.*

What Proceſſs ſhall iſſue againſt an Earl, Baron, Duke, Peer of Parliament, or Knight. See Tit. *Exigent, Contempt, Execution, and Parliament.*

Where and when Proceſſs ſhall be directed to the Coroners. See Tit. *Coroners.*

Of Proceſſs of Exccutions. See Tit. *Executions.*

Of Proceſſs awarded upon Suggestion. See Tit. *Suggestion.*

Where the Writ to the Biſhop, or other Proceſſs ſhall be directed to the Biſhop of the Dioceſe, or not; but to the Metropolitan, or Vicar general. See Tit. *Writ to the Biſhop and Ordinary.*

Where Proceſſs ſhall be awarded to cauſe an Infant to be brought into the Court, and viewed. See Tit. *Age, Infant, and Iſſue joined.*

Where a Record ſhall be removed and certified to another Court, without Writ, or Proceſſs, by the Hands of the Juſtice. See Tit. *Records.*

Where Proceſſs ſhall ceaſe againſt the Iſſue upon Iſſue joined for Part, or one Defendant, till Demurrer diſcuſſed for the other Part, or Defendant. See Tit. *Demurrer.*

Difference betwixt the Common Bench and Exchequer, in awarding Proceſſs. See Tit. *Courts.*

Where no Error to grant Proceſſs, where it is not grantable. See Tit. *Error.*

Where and what Proceſſs ſhall be awarded for the Recogniſor againſt the Recogniſee to have his Land again. See Tit. *Recogniſance, Extent, and Entry congeable.*

*Proclamation. Profession. Prohibition.*

Where Proceſs ſhall be awarded againſt Mainpernors. See Tit. *Execution*.

Where the Court of Office ſhall award Proceſs to inquire of Points omitted in the Verdict. See Tit. *Office of Court*.

Where Proceſs ſhall ceaſe againſt the Accuſary, till the Principal be convicted and attainted. See Tit. *Crown*.

Where the Juſtices will ſurceaſe to make Proceſs directed to them by the King, or not. See Tit. *Seals, and Superſedeas, Office of the Court, and Judgment, and Statutes, 2 E. 3. 20 E. 3. there*.

Where the Trial ſhall be by Veiors and Pernors, and Proceſs awarded againſt them to come in and make Trial, or not. See Tit. *Trial*.

Of Amendment of Proceſs in Default of Clerks, and where. See Tit. *Amendment*.

Of Diſcontinuance of Proceſs. See Tit. *Diſcontinuance of Proceſs*.

Of Proceſs of *Superſedeas*. See Tit. *Superſedeas*.

*Proclamation.*

Where Proclamation is to be made upon Statutes of Recuſants, or not. B. 10. 53, 54. b. 11. 62, 63, 65.

Of Coins, and where they are current upon the King's Proclamation only. B. 5. 2 p. 114. See Tit. *Prerogative, and Coins*.

Upon Waif and Eſtray, how made. See Tit. *Waif and Eſtray*.

Upon Iſſues, how, and in what Manner made. See Tit. *Fines of Lands, Continual Claim, and Stat. 4 H. 7. c. 24*.

Where made upon the Statute of Bankrupts. See Tit. *Commissioners*.

Where the King's Proclamation binds as Law, and where by his Proclamation he may repeal a Statute, or not. See Tit. *Coins, and Prerogative*.

*Profession.*

Profession, and the Parts of which it conſiſts. B. 2. 48.

Where Land upon Profession, and

entering into Religion, ſhall deſcend to the next of Blood as Heir, and the Goods come to his Executors, as if he were naturally dead. B. 2. 48. See Tit. *Diſcent, and Heir, and Mortdancerſter*.

Where Profession, or Time of Profession ſhall be tried by the Country, where by the Ordinary. B. 4. 71. b. 9. 31. See Tit. *Trial, and Deprivation*.

*Prohibition.*

To whom Prohibition ſhall be directed, and where as well to the Judge of the Court, as the Party. B. 2. 38, 43, 45. b. 4. 124.

Where Prohibition lies upon a Suit in the Court-Chriſtian for Deſamation and Slander, or not. B. 4. 17, 20. b. 5. 2 p. 51. b. 6. 23. See Tit. *Action of the Caſe*.

Where Prohibition lies upon a Suit in the Court-Chriſtian for a Legacy, or for ſuing Execution upon a Devife. B. 5. 2 p. 11, 73. b. 6. 23. See Tit. *Devife, and Conſultation*.

Where Prohibition ſhall be granted upon Suit in Court-Chriſtian by the Perſon of a Church, or for Dilapidations, &c. B. 11. 49. See Tit. *Stat. 13. c. 10*.

Where Prohibition lies and ſhall be granted upon Suit in Court-Chriſtian for Breach of Faith, or not. B. 5. 11, 23.

Upon Promise and Faith not kept, or in other Caſes where is no Remedy at the Common Law. B. 5. 22.

Where Prohibition ſhall not be granted upon Suit in Court-Chriſtian for Monies to be paid upon Redemption of Penance. B. 4. 20. b. 5. 9, 14. See Tit. *Conſultation*.

Out of Court Prohibition is grantable, and where out of the Common Pleas. B. 5. 2 p. 48, 51.

Where Prohibition ſhall be granted before any Suit begun in Court-Chriſtian, and Attachment upon it, tho' the Suit is never begun. B. 5. 2 p. 48.

Where Prohibition lies upon Suit in Court-Chriſtian, Part of which is ſpiritual, and Parcel temporal, or not,

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not. B. 4. 20. See Tit. *Attachment upon Prohibition, and Consultation.*

Where Prohibition shall be granted for Part, or Parcel, or not. B. 6. 23. See Tit. *Consultation.*

Where Prohibition shall be granted upon a Suit in the Court of Requests. B. 4. 123. b. 5. 2 p. 73.

Where Prohibition lies upon a Suit in Court-Christian for Divorce, or not. B. 7. 44, 45. See Tit. *Divorce, and Consultation.*

Where Prohibition shall be granted upon a Suit in Court-Christian, or &c. for the Portion of Orphans, &c. B. 5. 2 p. 73. See Tit. *Custom, Ward, and Orphans.*

Where Prohibition lies upon a Suit in Court-Christian Bastardy. B. 7. 44, 45. See Tit. *Bastardy, and Consultation.*

Where Prohibition shall be granted upon Suit in Court-Christian for a Tax assessed to the Repair of a Church, or not. B. 5. 9. 2 p. 67, 68. See Tit. *Consultation.*

Where Prohibition lies and shall be maintained upon Suit in Court-Christian for Tithes, or not. B. 2. 38, 43, 45, 46, 47, 48. b. 4. 75. b. 5. 9, 14 b. 6. 29. b. 7. 44. b. 11. 8, 9, 11, 16. See Tit. *Consultation.*

Where Prohibition lies and shall be granted upon Suit in Court-Christian for laying violent Hands upon a Priest. B. 4. 20. b. 5. 13, 14. 2 p. 51. See Tit. *Attachment upon Prohibition.* B. 7. 44.

Upon not allowing a Plea in the Spiritual Court, where it ought to be allowed. B. 5. 2 p. 65, 66, 67, 68.

Where Prohibition lies and shall be granted upon Suit in Court-Christian for Monies, or other Things concerning Matrimony, or not. See Tit. *Consultation.*

Where Prohibition shall be granted upon Suit in Court-Christian, or not. See Tit. *Appeals.*

Where Prohibition shall not be granted upon Suit in Court-Christian for a Mortuary. See Tit. *Consultation.*

Where Prohibition lies and shall be granted upon Suit in Court-Chri-

stian for Tithes of great Trees. See Tit. *Attachment upon Prohibition.*

Where Prohibition lies and shall be granted upon Suit in Court-Christian for a Devise, or &c. where Issue joined there is upon a Thing temporal. See Tit. *Premunire.*

Of Prohibition of Waste at the Common Law. See Tit. *Waste.*

Of Prohibition of *Ne injuste vexes.* See Tit. *Ne injuste vexes.*

Of Prohibition of *Superseadeas.* See Tit. *Superseadeas.*

What Statutes are in themselves Prohibitions, and where Action may be upon a Statute, without Process of Prohibition. See Tit. *Statutes,* in the End.

*Promise.*

Where Action of the Case lies upon Promise and Agreement to do a Thing which he misdoes, or does not. B. 4. 86. b. 5. 2 p. 72, 73. b. 9. 87 to 90, 112. b. 10. 77. See Tit. *Action of the Case.*

Where Action of the Case lies upon *Assumpsit* against the Party himself, or his Executors, and what is good and sufficient Consideration, what not. See Tit. *Action of the Case,* and *Executors.*

Where Prohibition shall be granted upon Promise of Monies in Marriage and Suit in Court-Christian for it. See Tit. *Prohibition, and Consultation.*

*Proof.*

How Proof shall be made upon a Condition of an Obligation to make Proof, &c. See Tit. *Condition,* and *Witnesses.*

Where Trial in Cases shall be by Proofs and Witnesses. See Tit. *Witnesses.*

*Property.*

Where the Defendant in Replevy upon Property claimed, and found against him, shall fine to the King. B. 8. 60.

In whom shall the Property of Trees be upon a Lease absolute, or with Exception of the Wood, or to the Lessor, or Lessee, and where to the Lessee, and where to the Disseisor, or Disseisee. B. 4. 62, 63. b. 5. 2 p. 76, 77. b. 11. 48, 51, 81.

Where Property of Goods given to a Man absent, vests in him till he disagrees. B. 3. 27. See Tit. *Gift, Agreement, and Presence.*

Where Property of Goods is changed by Bargain and Sale, in a Market open, or out of it, or not. B. 3. 78, 83. b. 5. 2 p. 83. See Tit. *Contract.*

Where Property of Goods stolen is lost by Default of fresh Suit. B. 5. 2 p. 109, 111. b. 6. 80. See Tit. *Appeals, and Fresh Suit.*

Where and when Property of Goods waived and estrayed is changed. B. 5. 2 p. 109. b. 7. 16. See Tit. *Waif and Estray.*

Where and when the Property of Goods waived and estrayed shall be adjudged in him who has the Franchise to have them, and where without Claim, or before Seizure. B. 5. 2 p. 107.

Where Property is in Birds and Beasts, which are of savage Nature, and when, and where not. B. 5. 2 p. 104. b. 7. 16, 17. See Tit. *Occupant.*

Where and when Property of the Goods of a Villein shall be adjudged in the Lord. See Tit. *Continual Claim.*

Where and when Property of Goods wrecked shall be in the King by his Prerogative, or in another Lord, who hath the Franchise to have them. See Tit. *Wreck.*

Where Property of Emblements shall be changed, and gained from one to another, as from the Disseisor to the Disseisee, or *&c.* See Tit. *Emblements.*

Where Property upon a Grant, Gift, or *&c.* in the Disjunctive shall be vested in the Donee, Grantee, *&c.* before Election, or not. See Tit. *Election, Gift, Demand, and Plaints.*

Protection.

Form of Protections (*Quia moratur, vel profecturus*) and what Words are necessary to be in them. B. 7. 8, 9, 21, 23.

*Quia moratur*, and what shall be allowed, what not. B. 7. 8, 9.

*Quia profecturus*, and what shall be allowed, what not. B. 7. 8, 9.

In *Q. Impedit*, not to be allowed. B. 4. 35.

In Assize of Novel Disseisin lies not, nor to be allowed. B. 4. 35. b. 8. 50.

Under which of the King's Seals good and sufficient, under which not. B. 2. 17. See Tit. *Seals.*

How long Protection shall endure. B. 5. 2 p. 107.

Where Protection shall be amended, or not. See Tit. *Amendment.*

Where Protection shall be allowed in a Voyage Royal, not otherwise allowable, and what is a Voyage Royal. B. 7. 8, 9.

Where Protection, because he is abroad, or to pass over, *&c.* is not to be allowed for him that is absent, unless he be out of the Realm. B. 7. 8, 9, 21.

Where Protection directed to one Court, will not serve, nor be allowed in another. B. 8. 68.

Protestation.

Of Protestation in Pleadings, and what shall be taken for a Protestation, where Two or Three Matters are to be pleaded to save the Advantage of Conclusion against the Party himself, or Strangers after. B. 1. 17, 18, 27, 33, 161. b. 2. 7. b. 3. 52, 53. b. 4. 6.

Where Protestation shall be taken and entred to save Advantage of Law. B. 1. 17, 18, 27, 33.

Where Protestation shall be taken and entred to save Advantage, and prevent Conclusion in the Quantity of the Land. B. 1. 27.

Where

*Purgation. Purveyors. Quantity. Quare Impedit.*

Where Protestation shall be taken and entred, to save Advantage, and prevent Conclusion in the Tenure of the Land. B. 1. 161. b. 4. 6.

Where Protestation shall be taken and entred, to save Advantage, and prevent Conclusion in the Manner of the Conveyance. B. 1. 161. b. 2. 7. b. 3. 53.

The Order of Protestation to be made, and where it shall be after Defence made, or not. B. 1. 17, 18, 33, 37, 161. b. 2. 7. b. 3. 53. b. 4. 6.

Where Protestation shall be taken and entred, to save a Man the Advantages of, &c. upon Attornment in *Quid juris clamat*, or *Per qua servitia*, otherwise he shall not be compelled to attorn. B. 6. 68. See Tit. *Attornment*, and *Quid Juris clamat*.

Where Protestation shall be taken and entred, to save a Man Advantages of, &c. upon Entry into Warrant. B. 2. 73, 74. See Tit. *Voucher*.

*Purgation.*

Where and what Clerk shall make Purgation, what not. B. 5. 2 p. 50, 110. b. 6, 68. b. 11. 29, 30. See Tit. *Clergy*.

Where a Clerk shall go quit without making his Jurisdiction. B. 5. 2 p. 50, 110. b. 6. 68. See Tit. *Clergy*, and *Statutes*, 18 *El.* c. 7.

*Purveyors.* See Tit. *Officers*.

*Q.*

*Quantity.*

**W**HERE the Plaintiff shall recover more Damages than he counted. B. 5. 2 p. 115. b. 10. 116. See Tit. *Damages*.

Where the Justices may abridge, or enlarge Damages, or not. B. 1. 10. B. 2. 31. b. 3. 71. b. 4. 67, 104. See Tit. *Damages*.

Where a Man shall fail of his Record for Variance in the Quantity

of the Trees, or not. B. 5. 2 p. 46. See Tit. *Failing of a Record*.

Where in a Writ of Waste the Plaintiff shall recover more than the Place wasted, and what shall be said the Place wasted. B. 11. 50. See Tit. *Waste*.

Where Apportionment shall be of the Tenure for the Particle upon the Statute *Quia emptores terrarum*, according to the Quantity, not Quality. See Stat. 18 *E.* 1. *Quia emptores terrarum*.

Where the Quantity is material in the Recital in the King's Grant, to make his Grant good, or not. See Tit. *Grant of the King*.

Where Quantity is material in a common Person's Grant to make the Grant good, or not. See Tit. *Grant*.

Where Protestation shall be taken in Pleading to save the Advantage of the Conclusion in the Quantity of the Services, or Land. See Tit. *Protestation*.

Form of pleading in Avowry, when he pleads in Abatement of Avowry for Variance in Quantity of Land, or Services. B. 9. 35, 36. See Tit. *Avowry*.

Where Uses of Land shall be declared and directed by an Indenture bearing Date before, tho' the Assurance subsequent vary in the Quantity of the Land, Time, or Persons. See Tit. *Uses*.

Where Quantity of Jurors is material upon the Statute 35 *H.* 8. c. 6. *De circumstantib.* See Tit. *Statutes*, and that Statute there.

*Quare Impedit.*

Form of the Writ of *Quare Impedit*, and what Matter is sufficient to abate it, what not. B. 4. 75. b. 5. 2 p. 97, 98, 102. b. 6. 49. b. 7. 25, 26, 27, 31. See below, b. 6. 66.

Of the Moiety of an Advowson of a Church, or Advowson of a Moiety, and where one Form of the Writ lies, where another. B. 4. 75. b. 5. 2 p. 102. b. 10. 136. See Tit. *Advowson*.

*Quare Impedit.*

Of an Abby, or Prior, and the Form of the Writ. B. 3. 74. b. 6. 65, 66.

Where Husband and Wife shall join in a *Q. Impedit*. B. 5. 2 p. 57, 97. See Tit. *Joining in Action*.

Where *Q. Impedit* lies against the Incumbent alone. B. 7. 25, 26.

Where it is good Plea to abate the *Q. Impedit* to say, No Church, or Two Churches, and none without Addition. B. 6. 65, 66. See Tit. *Writ*, and *Maintenance of Writ*.

Where the *Q. Impedit* shall be maintained by Known by the one Name, or other, against Misnaming pleaded. B. 6. 66. See Tit. *Misnaming*, and *Reputation*.

Count in *Q. Impedit*, and where not good without alledging Presentment, and in whom it shall be sufficient, in whom not. B. 3. 78. b. 4. 9. b. 5. 2 p. 57. twice, and 98. b. 6. 57.

Where the Count in *Q. Impedit* shall not be double, by alledging Two Presentments. B. 5. 2 p. 98. See Tit. *Count*.

Count in *Q. Impedit*, and where it shall be *De medietate advocat*. and where *De advocat. medietatis*. B. 4. 75. b. 5. 2 p. 102. See Tit. *Advowson*.

Count in *Q. Impedit* by the King where he claims by an Alien born. B. 7. 19. See Tit. *Alien born*.

Count in *Q. Impedit* upon the Voidance of a Church, by taking Two Benefices. B. 4. 89, 117. See Tit. *Pluralities*.

Count in *Q. Impedit* by the King where he claims the Presentation to a Church by Reason of the Temporalities of a Bishop come into his Hands. B. 4. 75. See Tit. *Presentment to a Church*, *Prerogative*, and *Temporalities*.

Count in *Q. Impedit* by the King, where he claims the Presentment by Alienation of his Tenant in Mortmain. B. 7. 26. See Tit. *Presentment to a Church*, and *Mortmain*.

Where Induction is material for a *Q. Impedit*, and where it must be alledged in the Count, or not; but Admission and Institution will be suffici-

ent. B. 4. 74, 75, 79. b. 6. 29, 49. b. 7. 26, 28. b. 9. 132. twice.

Bar against the King in *Q. Impedit*, and what is good, what not. B. 4. 79, 117. b. 6. 29, 49. b. 7. 19, 27.

Bar in *Q. Impedit* by Accord, or not. B. 6. 43. See Tit. *Accord*.

Bar in *Q. Impedit* by Release, and where Release by one Plaintiff bars not another. B. 5. 2 p. 79, 98.

Bar in *Q. Impedit* upon Grant of the next Advowson by Lapse, or *&c.* as well against the King, as a common Person. B. 7. 28. b. 8. 144.

Where Plenary by Six Months bars in *Q. Impedit*, and what shall be said Plenary, what not. B. 4. 76. b. 6. 29, 30, 49, 50. See Tit. *Writ to the Bishop*, and above, of *Induction*.

Form of pleading Plenary. B. 7. 26. See above in *Action*.

Where and what Pleas in Bar the Incumbent shall have in *Q. Impedit*. B. 6. 48. b. 7. 26. b. 10. 54. See Tit. *Incumbent*, and *Statutes*, 25 E. 3. c. 7. b. 4. 117.

Pleas for the Bishop, or in Bar, or as Ordinary, and claiming nothing but as Ordinary and what is good, and the Sequel and Consequence of it. B. 4. 17, 117. b. 5. 2 p. 57, 58. b. 6. 49, 50, 61, 62. b. 7. 25, 26. b. 9. 49. b. 10. 54. See Tit. *Notice*, and *Writ to the Bishop*.

Bar in *Q. Impedit* against a Bishop for Refusal of a Clerk, *&c.* and for what Causes he may refuse, and the Consequence of it. B. 4. 17. b. 5. 2 p. 57, 58. b. 8. 4. b. 10. 54. See Tit. *Notice*.

Bar in *Q. Impedit* upon Non-suit, and where it is peremptory. B. 7. 27. See Tit. *Writ to the Bishop*.

Bar by Usurpation and Presentment, which puts out of Possession of the Church, or not. B. 1. 99. b. 2. 93. b. 3. 78. b. 6. 29, 30, 49, 50. b. 7. 28. b. 11. 33. See below, and Stat. *W. c. 5*.

Where Usurpation and Presentment by the King puts a Man out of Possession of his Church, or not. B. 6. 51. See Tit. *Petition*.

Where

*Quare Impedit. Quare non admittit.*

Where Usurpation and Presentment upon the King puts him out of Possession of a Church, or not. B. 6. 29, 30, twice, and 49. b. 7. 26, 28. See Tit. *Prerogative*, and *Disseisin*.

Where Usurpation and Presentment upon an Infant puts him out of Possession, and bars him in a *Q. Impedit*. B. 6. 49, 50. b. 11. 33. See Tit. *Infant*, and *Stat. W.* 2. c. 5.

Where Usurpation and Presentment upon a Woman covert puts her out of Possession, and bars her in a *Q. Impedit*, or not. B. 6. 49, 50.

Where Usurpation and Presentment upon Tenant in Tail, Lessee for Years, or *&c.* putteth not him in Reversion out of Possession of a Church. B. 6. 50, 51. See Tit. *Stat. W.* 2. c. 5. there.

Where Usurpation and Presentment to a Church in Time of Vacation puts not the Patron out of Possession. B. 6. 50.

Where Usurpation and Presentment to a Church in Time of War puts not a Man out of Possession, *&c.* B. 1. 99. b. 2. 93. b. 6. 30.

Where Collation of the Bishop Ordinary puts not out of Possession of a Church, nor gains the Patronage. B. 6. 29, 30, 50. See Tit. *Writ to the Bishop*, and *Notice*.

Where Presentment to a Church gains not the Patronage, nor puts out of Possession, because obtained by Collusion. B. 3. 78. See Tit. *Presentation to a Church*.

Of a Vicarage, and to whom the Advowson of it belongs, or to the Parson, or to the Patron. B. 8. 144. See Tit. *Appendant*, and *Presentation to a Church*.

Bar in *Q. Impedit* by Dispensation, where the Plaintiff counts and intitles himself, because of Plurality. B. 4. 75, 76, 79, 89, 117, 118. See Tit. *Dispensation*.

Where and when a Church shall be said void in Deed, and when in Law, and by what Act and Means Voidance of a Church shall be. B. 4. 75, 76, 79, 90, 117, 118. b. 6. 21, 29, 40, 61. See Tit. *Deprivation*, and *Plurality*.

What Issue shall be good in *Q. Impedit*, what not, and what Matter shall be traversed, and traversable, what not. B. 5. 2 p. 57, 58. b. 9. 9, 10. b. 10. 54.

Where Issue shall be taken and joined upon Appendance of a Church in *Q. Impedit*. B. 9. 9, 10. b. 10. 54.

What Points and Parts are inquirable in *Q. Impedit*, and of which the Jury is bound to inquire. B. 5. 2 p. 58, 59. b. 6. 48, 49, 51.

What Damages are recoverable in *Q. Impedit*, and whether the King shall recover Damages. B. 5. 2 p. 53, 59. b. 6. 49, 51. See Tit. *Damages*.

Judgment in *Q. Impedit*, and where several Judgments are in it. B. 5. 2 p. 58. b. 6. 49. See Tit. *Judgment*.

Where the Bishop Ordinary ought to give the Patron Notice of the Avoidance of the Church, *&c.* or not. See Tit. *Notice*.

Where and upon what Plea of the Bishop's in a *Q. Impedit* the Writ to the Bishop shall be awarded. See Tit. *Writ to the Bishop*.

Where Judgment shall be given in a *Q. Impedit*, but Execution shall cease. See Tit. *Judgments*.

Where and what Essoin shall be allowed in a *Q. Impedit*, what not. See Tit. *Essoin*.

Where Protection lies not in *Q. Impedit*. See Tit. *Protection*.

What Day shall be given in *Q. Impedit*. See Tit. *Day*.

Where the Incumbent upon a *Q. Impedit* shall be removed, or not. See Tit. *Writ to the Bishop*, and *Incumbent*.

Pleas for the Patron, and which he shall have in *Q. Impedit*, which not. See Tit. *Incumbent*.

Where a Church is void, without Sentence of Deprivation. See above, and Tit. *Deprivation*.

*Quare non admittit.*

For the King. B. 5. 12, 13.

Where it lies, against whom, and the Bar in it. B. 5. 12. b. 8. 142, 143.

Where the Temporalities of a Bishop shall be seized into the King's Hands,



*Quem redditum reddit. Que estate. Quid juris clamat. Quod ei desorceat.*

Hands upon Contempt in *Quare non admittit*. B. 5. 12, 13. See Tit. *Contempt*, and *Judgment*, and where the Plaintiff in it shall recover Damages.

*Quem redditum reddit.*

Where in *Quem redditum reddit* one Tenant shall attorn alone, or for Parcel and Part, or not. B. 2. 67. See Tit. *Attornment*, *Per qua servitia*, and *Quid juris clamat*.

Where Age shall be granted in *Quem redditum reddit*. See Tit. *Age*.

*Que estate.*

Where the Plaint shall plead a *Que estate* of the Part of the Tenant, without shewing how, and contrary. B. 8. 99.

Where a *Que estate* shall be pleaded of the Tenant in Tail, or for Life, without Averment of their Lives, or not. B. 1. 32, 44, 46, 55, 69. b. 5. 2 p. 9. See Tit. *Averment*, and *Pleadings*.

Where and in what Actions the Plaint in his Count, or Replication shall convey to himself a Title by a *Que estate*, without shewing how, or in what not. B. 9. 51, 53. See Tit. *Prescription*.

Where a *Que estate* shall be traversed, and Issue joined upon it. B. 6. 24, 25. See Tit. *Issue joined*.

Where he that rebates by Warranty, may convey to himself a *Que estate*, without shewing how. B. 3. 62. See Tit. *Rebutter*.

Where and by what Means a Man may have another's Estate, and by what Means, where, and by what not. B. 1. 125. b. 3. 62. See Tit. *Rebutter*.

Where a Man shall vouch and convey to himself by a *Que estate*, without shewing how. See Tit. *Assignee*.

Where Prescription by *Que estate* is good, and where not without shewing the Deed of Assignment. See Tit. *Prescription*.

*Quid juris clamat.*

Where Attornment of one Tenant

alone shall be accepted, or not. B. 2. 67. See Tit. *Attornment*, and *Quem redditum reddit*.

Where Attornment of the Tenant in *Quid juris clamat* shall be accepted for Part or Parcel, or not. B. 2. 67. See Tit. *Attornment*, and *Quem redditum reddit*.

Where a *Quid juris clamat* ought to be brought before the Fine ingrossed. B. 3. 86 twice. b. 5. 2 p. 39. b. 6. 68. See Tit. *Fines of Lands*.

A good Plea in Attornment where to out the Plaintiff to have Attornment for a certain Time. B. 2. 68. b. 3. 86. b. 5. 2 p. 39. See Tit. *Attornment*.

What is a good Plea to out the Plaintiff to have Attornment for ever. B. 2. 68. b. 3. 86. b. 5. 2 p. 39. b. 6. 68. b. 11. 80. See Tit. *Attornment*.

Where no *Quid juris clamat* shall be if the Note of the Fine mentions not the Tenant. B. 6. 68. See Tit. *Fines of Lands*.

Where it is a good Plea to out the Plaintiff of Attornment in *Quid juris clamat*, to say the Conusor had nothing but in Tail. B. 3. 86. See Tit. *Attornment*.

Where Non-tenure shall be pleaded in *Quid juris clamat*, and Attornment ought to be made by the Tenant of the Land. See Tit. *Attornment*, and *Non-tenure*.

Where a Man shall not be compelled to attorn in *Quid juris clamat*, without saving to him his Advantages of &c. See Tit. *Protestation*, and *Attornment*.

Where Age shall be granted in *Quid juris clamat*. See Tit. *Age*, and *Attornment*.

Where and who are not compelled by a *Quid juris clamat*, to attorn, yet is their voluntary Attornment good. See Tit. *Attornment*.

*Quod ei desorceat.*

Where and for whom *Quod ei desorceat* lies, where and for whom not. B. 3. 9. b. 5. 2 p. 85. b. 6. 8. See Tit. *Stat. W.* 2. c. 4.

Upon

*Quo minus. Quod permittat. Quo warranto. Rape. Ravishment of Ward.*

Upon Recovery by Default, and where, or not. B. 3. 9. b. 5. 2 p. 40, 85, 86. b. 6. 8. See Tit. *Stat. W.* 2. c. 4. there.

In Nature of a Writ of Right, and where. B. 3. 9. b. 5. 2 p. 85, 86.

Of Recovery of a Copyhold. B. 3. 9. See Tit. *Copyhold*.

What shall be a good Bar in a *Quod ei deforceat*. B. 5. 2 p. 85. b. 6. 8.

Counterplea of Voucher in *Quod ei deforceat*, where the Demandant, or Tenant vouches, and what is good. B. 11. 62. *W.* 2. c. 4.

*Quo minus.*

Form of the Writ of *Quo minus*, and what is sufficient to abate it. B. 1. 3. b. 6. 38.

Who shall have Privilege of the Court of Exchequer, to sue there by *Quo minus*, who not. B. 1. 3. b. 5. 16. 2 p. 62. b. 6. 38. b. 8. 58, 68.

Where Wager of Law lies not in a *Quo minus*. B. 4. 95. See Tit. *Ley*.

*Quod permittat.*

Form of the Writ of *Quod permittat*, and what Matter is good and sufficient to abate it, what not. B. 8. 46, 47.

For, and against whom *Quod permittat* lies and shall be maintained, against whom not. B. 5. 2 p. 101. b. 8 46, 47. b. 9. 55.

Count in *Quod permittat*, and what is good, what not. B. 9. 54.

Where it lies for Wrong, or Nuisance done in another's Time than his who complains and brings the Action, or his against whom it is brought. B. 5. 2 p. 101. b. 9. 54, 55.

Bar in *Quod permittat*, and what is good, what not. B. 5. 2 p. 101. b. 9. 54, 55.

Judgment in *Quod permittat*, and where Damages shall be recovered in it, and what, or not. B. 5. 2 p. 101. b. 9. 54, 55.

Where *Quod permittat* lies not, but an Action of the Case, or Assize of Nuisance. B. 8. 46.

Where Battle shall be waged in *Quod permittat*. B. 8. 46. See Tit. *Battle*.

*Quo warranto.*

Where Title may be made to a Franchise, or Liberties, without shewing Allowance in *Quo warranto*, and what Allowance is sufficient. B. 9. 25, 26, 27, 28. See Tit. *Grant of the King, and Prescription*.

Where and what is a good Bar against the King in *Quo warranto*. B. 8. 119.

Judgment in a *Quo warranto*. B. 9. 28, 29.

Where a Franchise shall be seized into the King's Hands upon a *Quo warranto* as forfeited. See Tit. *Forfeiture*.

Where Fine shall be made to the King in a *Quo warranto*, and the Party restored to his Franchise. See Tit. *Fine to the King*.

R.

*Rape.*

**F**orfeiture of Land by Assent to Rape, and he that is next of Blood may enter, who shall be said next of Blood to have Benefit of the Entry and Forfeiture. B. 1. 95, 98, 137. b. 3. 39, 40, 61, 62. See Tit. *Statutes*, 6 R. 2. c. 6. and 4 & 5 P. and M. c. 8.

*Ravishment of Ward.*

Form of the Writ of Ravishment of Ward, and what Matter is good and sufficient to abate it, what not. B. 9. 73. See Tit. *Ward*.

Where a Woman covert shall be bound by the Statute of *West.* 2. c. 35. of *Ravishment of Ward*. b. 9. 73.

Who shall be said a Ravisher, or Deforceor of Ward, against whom a Writ of Ravishment of Ward lies, who not. B. 9. 72, 73. See Tit. *Ward*.

Where Trespass may be at the Common Law, or a Writ of Ravishment

*Reattachment. Rebutter. Recaption. Recital.*

ment of Ward given by Statute, at Election, for ravishing a Ward. B. 9. 72. See Tit. *Election*.

What Verdict is good in a Writ of Ravishment of Ward. See Tit. *Ward*, and *Verdict*.

*Reattachment.*

Form of Reattachment, and where the Writ shall be general, where special. B. 7. 19.

Where it shall be awarded upon the King's Demise. B. 7. 30, 31.

Where it shall be awarded upon a Writ never returned. B. 7. 30.

Where upon a Writ, or Bill, which comes in by *Certiorari*. B. 7. 30.

Where Reattachment must be sued within the Year and Day, or at another Time at Election, &c. B. 7. 30.

Where upon Reattachment the Parties shall plead anew, or not. B. 7. 30. See Tit. *Record*, and *Resummons*.

Where Reattachment lies not for the Defendant in an Action. B. 7. 30.

*Rebutter.*

Of Rebutter in Pleading. B. 4. 4, 5.

Where he that is not Heir to the Warranty, shall be rebutted by it, or not. B. 8. 53, 54. See Tit. *Voucher*.

Where a Stranger to the Deed and Warranty shall rebut, and he that is in of another Estate, as Assignee, or Assignee of Assignee, or not. B. 1. 122, 125, 136. b. 3. 62, 63. b. 10. 96, 97. See Tit. *Assignee*, and *Warranty*.

Where he that rebuts by Warranty, conveys to himself by a *Que estate*, without shewing how. See Tit. *Que estate*.

Where a Stranger to the Exchange shall not rebut by Warranty. B. 4. 121, 122. See Tit. *Exchange*, and *Voucher*.

Where a Stranger to the Deed in Avowry shall rebut the Avowant to claim other Rents, or Services. B. 5. 2 p. 101: b. 9. 33, 34. See Tit. *Avowry*, and *Estoppel*.

Of Rebutter by Warranty collateral without Assets, or by Warranty lineal with Assets in Formedon. See Tit. *Assets*, and *Warranty*.

Where a Man may rebut by Warranty made to him, and another, or not. See Tit. *Counterplea of Warranty*.

*Recaption.*

Form of the Writ of Recaption, and what Matter is sufficient to abate it. B. 9. 50.

Where the Defendant in Recaption shall fine to the King, or not. B. 8. 41, 60, twice, and 120. b. 11. 43. See Tit. *Fine to the King*.

Where Imprisonment shall be of the Defendant in Recaption, or not. See Tit. *Fine to the King*, *Imprisonment*, and above.

*Recital.*

Where Relation by Recital of a Thing that is not, nor ever was, makes the whole Grant, Feoffment, or &c. merely void. B. 2. 33, 67. b. 3. 10. b. 4. 35, 50, 74. See beneath.

Where Recital of Two Tenants, there being but one, or contrary, and Grant of the Reversion is void by false Recital, or not. B. 2. 67. b. 3. 28. b. 8. 79. See Tit. *Grants*.

Where Recital in Grants is material, and makes the Grant good where it is void for Want of Recital, or for false Recital. See Tit. *Grants*.

Where the King's Grant is void, because of false Recital, Not-recital, or &c. and where Recital makes it good. See Tit. *Grants of the King*.

Where the King's Grant is void, because the Value of the Thing granted is not truly recited in the Letters Patent. See Tit. *Grant of the King*.

Where Estoppel is by Recital, or not. See Tit. *Estoppel*.

Where an Act of Parliament is good, notwithstanding Mistaking, and false Recital, &c. See Tit. *Parliament*.

Where in Count counting, or Plea pleading all the Prerogative of an

Act

*Recognisance. Records, and removing of them.*

Act are to be alledged, or the whole Act pleaded, and the Plea is vicious if mispleaded. See Tit. *Parliament*.

Where and in what Writs founded upon Statutes a Man ought to rehearse, or mention them in the Writ, where and in what not. See Tit. *Action upon Statutes*.

*Recognisance.*

Form of Recognisance, Statute-Merchant, or Staple. B. 3. 12, 67. b. 4. 65. See Tit. *Statutes*, 23 H. 8. c. 6. there.

Who may take Recognisances by Authority, who not. B. 3. 64. b. 7. 38. See Tit. *Stat.* 23 H. 8. c. 6.

How the Certificate of a Statute shall be made, and what is good, what not. B. 3. 67. b. 7. 38. See Tit. *Stat.* 23 H. 8.

Where Execution upon Recognisance by *Capias* lies not. B. 3. 12. See Tit. *Execution*.

Of Lands, or *&c.* and what Lands, or *&c.* shall be in Execution upon a Statute, or Recognisance, Lands because of Use shall be in Execution. B. 2. 59. b. 3. 12, 13. b. 4. 31, 32. b. 5. 2 p. 86. b. 7. 19, 20, 22, 39, 40. See Tit. *Audita querela, Extinguishment, and Contribution*.

Where the Sheriff shall deliver the Recognisor's Lands to the Recognisee upon Extent by him made, and where not; but upon Extent returned, Writ shall be awarded to deliver the Lands, and what Return is good. B. 4. 67, 74.

How Execution shall be made where the Lands are in Execution upon a latter Statute. B. 4. 65, 66. See Tit. *Scire facias*.

Where Execution may be twice upon a Statute-Staple, Merchant, or Recognisance, and where after Execution determined, evicted, or defeated, he shall have new Execution, or not. B. 4. 66. See Tit. *Extent*.

Where and how Execution shall be awarded upon Recognisance, or *&c.* by *Elegit*. See Tit. *Execution, and Extent*.

The Form of *Scire facias* to have Execution out of a Recognisance, or *&c.* and what Matter is sufficient to abate it, what not. See Tit. *Scire facias*.

Where Execution shall not be sued upon a Recognisor, *&c.* against him only who survives; but against him, and the Heir of the other, *&c.* See Tit. *Execution, and Recovery in Value, and Charge*.

Where the Writ of Debt lies and is maintainable upon Recognisance, or *&c.* See Tit. *Debt*.

Where *Audita querela* lies for the Feoffee of the Recognisor, to have Contribution of the Lands of another Feoffee of the Recognisor. See Tit. *Audita querela, and Contribution*.

Where Age shall be granted in *Scire facias*, to have Execution upon a Recognisor. See Tit. *Age*.

Where Affize lies by Tenant, by Statute-Staple, Merchant, or the Recognisee. See Tit. *Affize, and Statutes*, W. 2. c. 18.

How the Recognisor, *&c.* or his Alicnee shall have back their Land after Execution and Satisfaction had, or by Action, and what, and where by Entry, and where the Recognisor shall hold over his Term of Extent. See Tit. *Entry congeable, and Suggestion*.

Where Execution upon Statute-Merchant, Staple, or Recognisee is discharged by Purchase of Parcel of the Land of the Recognisor, or *&c.* See Tit. *Extinguishment, and Audita querela*.

*Records, and removing of them.*

Where a Record may be removed and certified from one Court to another by the Hands of a Justice, or other. B. 1. 157. b. 8. 23. b. 9. 99. See Tit. *Remover*.

Where the Court shall write to have a Record, and where not; but the Party shall have Day to bring it in at his Peril. B. 6. 53.

Where a Record shall be removed by *Certiorari*, and where not to be removed for Default in the Writ of *Certiorari*, B. 9. 118. See Tit. *Remover*.

Where

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Where the intire Record must be removed, the Original, and whole Process, and where the Justices will hold Plea upon Parcel of the Record. B. 11. 39, 41. See Tit. *Error, Monstrance of Deeds, and Remover.*

Where the Record it self shall not be removed, but the Tenor and Transcript of it, and where the Justices will hold Plea, and proceed upon the Tenor, or Tenor of the Tenor of a Record. B. 5. 2 p. 39, 43, 53. b. 8. 8. See Tit. *Monstrance of Deeds, and Exemplification.*

Where a Record erroneus shall be accounted a Record till it be reversed, and where a Record reversed is said no Record. B. 8. 142, 143.

Where by revering one Record another shall be annulled and avoided, or not. B. 5. 2 p. 90. b. 8. 142, 152. b. 9. 129. See Tit. *Error.*

How a Record shall be revived by Reattachment, and where the whole Record and Pleading, and where but Parcel. B. 7. 30. See Tit. *Reattachment.*

What are Courts of Record, and what not. See Tit. *Courts.*

Where a Record shall be reversed in Part and Parcel, or for one Defendant, and stand for another, or for the other Part. See Tit. *Error.*

Of a Record of Exemplification. See Tit. *Exemplification.*

Where a Writ shall abate, because of Variance betwixt it and the Record. See Tit. *Variance.*

Of Amendment of a Record, and Variance betwixt the Writ and Record. See Tit. *Amendment.*

Where a Man is bound to take Notice of Matters of Record, and Acts of Parliament. See Tit. *Notice, Parliament, and Ignorance.*

Where the King cannot take an Estate in Lands, or *&c.* without Matter of Record. See Tit. *King, and Inrollment.*

Of Entry of Pleas of Record. See Tit. *Entry of Pleas.*

Where a Record shall be tried by the Country, or not. See Tit. *Trials.*

Where failing of the Record is by

Variance in the Person's Names, Quantity of the Land, Omission, or *&c.* See Tit. *Failing of a Record.*

Form of pleading of Records, as Fines, Recoveries, or *&c.* See Tit. *Pleadings, and Parliament.*

Of Estoppels by Record, and what is good and sufficient, and where a Stranger to a Record shall be estopped, and where he shall estop another, *&c.* See Tit. *Estoppel, and Averments.*

Of Records of Fines, and all the Matter concerning them. See Tit. *Fines of Lands, and Averments.*

The Authority and Credit which the Law gives to Rolls and Records of Coroners. See Tit. *Coroners.*

Where a Record before Time of Memory shall be put in Execution, and avail at this Day, or not. See Tit. *Grant of the King.*

Where an Inquest shall inquire of, and try Matter of Record, and where their Finding is good. See Tit. *Enquest.*

Of shewing of Records, and the whole Matter concerning it. See Tit. *Monstrance of Deeds.*

Trial of the Issue no such Record, and where it shall be tried by the Country, or not. See Tit. *Manor.*

Where not Parcel, or not comprised within the Record is a good Issue, and how to be tried. See Tit. *Trial.*

Where and to what Intents and Purposes the Tenor of a Record is sufficient, to what not. See Tit. *Monstrance of Deeds, Exemplification, &c.*

*Recovery.*

Where by Recovery of one Thing another is recovered. B. 4. 87. b. 11. 49. See Tit. *Demand, and Grants.*

Where upon Recovery a Man shall be in Possession presently, without Execution, or Possession and Seisin delivered by the Sheriff, or not. B. 1. 94, 97, 105. See Tit. *Possession, and Execution.*

How the Sheriff shall make Execution upon a Recovery, and by what

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what Thing the Party shall be put in Possession. See Tit. *Execution*.

Where he that enters by Virtue of Recovery, is a Disseisor. See Tit. *Entry congeable*.

Where Entry is lawful upon a Difcent after Recovery, or not. See Tit. *Entry congeable*, *Remitter*, and *Falsifying of Recovery*.

Where Entry is lawful upon a Stranger to a Recovery, who came in by a mean Estate, or not. See Tit. *Entry congeable*.

Where Entry is not lawful after Recovery without suing *Scire facias*. See Tit. *Entry congeable*, *Error*, and *Scire facias*.

Where upon Recovery no Execution shall be without *Scire facias*. See Tit. *Scire facias*, and *Execution*.

Where Entry by him in Remitter or Reversion is lawful, notwithstanding Recovery had against Tenant for Life. See Tit. *Forfeiture*, and *Entry congeable*.

Where Issue in Tail shall be remitted against Recovery had against his Ancestor. See Tit. *Remitter*, and *Falsifying of Recovery*.

Where Recoveries may be falsified, how, and by whom, by whom not. See Tit. *Falsifying of Recovery*.

Where an Executor is bound to satisfy him that recovers first, and what Debts he must pay first. See Tit. *Executors*.

Where a Recovery heretofore in another Action bars in an Action, and in which, or not. See Tit. *Bar*, *Extinguishment*, and *Trespass*.

Where he that recovers in an Action, shall have the Emblements, or not. See Tit. *Emblements*, and *Recouper*.

Form of pleading Recoveries, and other Matters of Record. See Tit. *Pleadings*.

Of recouping of Damages upon Recovery in Actions, and where they shall be recouped, or not. See Tit. *Recouper*.

Of Recovery in Value, and the whole Matter concerning it. See Tit. *Recovery in Value*.

Of *Scire facias* upon a Recovery, Bar in it, and the whole Matter concerning *Scire facias*. See Tit. *Scire facias*.

Of common Recovery. See Tit. *Assurances*.

*Recovery in Value.*

Where, and when, and from what Time Lands shall be bound to recover in Value, from what Time not. B. 3. 14 b. 4. 121. b. 8. 134. See Tit. *Warranty of Charters*, *Exchange*, and *Partition*.

What Lands and Things shall be put in Execution upon Recovery in Value, what not. B. 4. 87, 121, 122. b. 8. 171.

When Execution shall be sued upon Recovery in Value, and before what Time not. B. 1. 96, 105.

Where Recovery in Value by Tenant for Life, &c. avails him in Reversion, or Remainder, and vests in them, &c. or not. B. 1. 15. b. 3. 5, twice, and 6. b. 10. 43, 44. See Tit. *Falsifying of Recovery*, and *Assurances*.

How Recovery in Value shall be, where the Heir is vouched in the Wardship of divers Persons. B. 2. 25. b. 3. 13, 14. See Tit. *Voucher*.

Where Recovery in Value shall be against some of the Vouchers for the whole Loss, or not, but the Lands of all shall be charged and bound, and put in Execution. B. 2. 25, b. 3. 13, 14. b. 8. 52. See Tit. *Execution*, and *Voucher*.

Where a Man is vouched, and Recovery in Value had against him, he shall never be restored to the Land recovered in Value, tho' the Demandant's Title be after disproved. B. 5. 2 p. 90.

Where the Wife Tenant in Dower shall recover in Value against the Heir upon Eviction of Dower, and how, and to what Value. B. 4. 9. 122.

Where Recovery in Value shall be by one Coparcener against another for the equal Part, and of what Lands, and how Execution shall be made. B. 4. 122. See Tit. *Aid*, and *Partition*.

Upon

*Recouper. Recusants and Recusancy.*

Upon Exchange defeated, and of what Lands, of what not. B. 4. 121, 122. See Tit. *Exchange*, and *Counterplea of Warranty*.

Where Voucher and Recovery in Value shall be, because of a Reversion. See Tit. *Counterplea of Voucher*.

Where Recovery in Value shall be in Affize of Novel Disseisin, or not. See Tit. *Counterplea of Voucher*.

Where Recovery in Value by Tenant in Tail upon Voucher binds the Estate Tail, and the Issues in Tail for ever. See Tit. *Falsifying of Recovery, Assurances, and Remitter*.

Where Recovery in Value shall be upon Warranty by Homage Ancestrel. See Tit. *Counterplea of Warranty*.

Where the Demandant in *Quod ei desorceat* shall vouch and recover in Value. See Tit. *Quod ei desorceat*.

Where Recovery in Value shall be of Lands, aliened by Collusion. See Tit. *Assets*.

Where Formedon lies for Land recovered in Value, and the Writ and Title shall be maintained upon Issue, He gave not at all. See Tit. *Writ*, and *Formedon*.

Where *Scire facias* lies in Value Lands descended of late Time. See Tit. *Scire facias*, and *Executors* the like.

*Recouper.*

Where Recouper of Rent shall be in Damages which the Tenant has sustained, &c. or not. B. 3. 65. b. 5. 2 p. 30. See Tit. *Circuity of Action*.

Where Recouper of Damages shall be, because of mending Houses at the Costs of the Tenant, or Defendant. B. 5. 2 p. 30.

Where Recouper of Damages shall be, because the Tenant being intitled to have Dower deforced him. B. 5. 2 p. 30.

Where Recouper of Damages shall be, because the Plaintiff recovered in another Action before. B. 4. 43, 94.

Where Damages shall be recouped, because the Plaintiff is seized of

the Land, or possessed of Goods, &c. of latter Time. B. 11. 49, 52.

Where Recouper of Damages shall not be, because of Common. B. 5. 2 p. 31.

Where an Executor may pay himself, and the Debt shall be recouped. See Tit. *Executors, Assets, and Agent, and Patient*.

Where retaining of &c. shall be said Performance of a Condition for Payment of Monies, and it shall be recouped, &c. See Tit. *Condition*.

Where a Rent descending to the Heir by Way of Extinguishment, shall be Assets, and recouped. See Tit. *Assets*.

Where Estoppel is, and Recouper of one Thing for another, to avoid Circuity of Action, or not. See Tit. *Circuity of Action*.

Dower, Executors, and Condition above, where Recouper shall be of Dower by a Woman upon Indowment of the *Plus beale*. See Tit. *Dower*.

*Recusants and Recusancy.*

The Statutes made against Recusants, and Exposition of them. 1 El. c. 2. 23 El. c. 1. 29 El. c. 6. 35 El. c. 1 and 2. 3 Jac. c. 4. 7 Jac. c. 6. b. 10. 54 to 57. b. 11. 57 to 66.

Where the Husband shall be charged for the Penalty by the Statutes of Recusants forfeited by his Wife, or not. B. 11. 61, 62. See Tit. *Baron and Feme*.

Where the common Count is bound by the Statutes of Recusants, and shall be imprisoned, &c. B. 11. 61, 63, 65.

How, and in what Manner the Penalties given by the Statutes of Recusants shall be recovered. B. 10. 54. b. 11. 61, 62.

What Courts and Justices have Power and Authority to inquire of Recusancy, and in what Courts the Penalties shall be recovered, in what not. B. 10. 53, 54. b. 11. 61, 62, 63.

Of Informations upon the Statutes of Recusants and Recusancy. See Tit. *Information*.

*Rediffesin. Re-extent. Relation.*

Of Inditements upon the Statutes of Recufancy. See Tit. *Enditements*.

Of Proclamation upon the Statutes of Recufants and Recufancy. See Tit. *Proclamation*.

*Rediffesin.*

Where Husband and Wife shall join in a Writ of Rediffesin, and be jointly sued. B. 9. 72.

Where a Woman covert shall be bound by the Statute of Rediffesin, and imprisoned. B. 9. 72.

Where Rediffesin lies not in antient Demean. B. 4. 65. See Tit. *Stat. Merton. c. 2. there.*

Antient Demean no Plea in Rediffesin. B. 4. 65. See Tit. *Antient Demean.*

Process in the Writ of Rediffesin. B. 5. 2 p. 88. See Tit. *Exigent*.

Where the Party convict of Rediffesin shall be fined to the King. B. 5. 2 p. 88. b. 8. 59. See Tit. *Fine to the King, and Statutes, Merton. c. 3.*

Where Imprisonment shall be of the Party convict of Rediffesin. B. 5. 2 p. 88. b. 6. 9. b. 8. 59. b. 9. 72. See Tit. *Imprisonment, and Stat. Merton. c. 3.*

Authority of the Sheriff upon a Writ of Rediffesin, and how he shall demean himself upon it. B. 8. 152. See Tit. *Statutes, Mert. c. 3.*

Judgment upon Rediffesin. B. 5. 2 p. 88. b. 6. 9. b. 8. 59. b. 9. 72.

Where by Reversal of the Judgment in the first Action the Judgment in Rediffesin shall be reversed. See Tit. *Error*.

Where the Writ of Rediffesin lies, tho' the Estate of him that recovered, be changed. B. 11. 81.

*Re-extent.* See Tit. *Extent*.

*Relation.*

Where Relation of Words in a Writ makes the Writ good. B. 8. 119. See Tit. *Writ*.

How the Word (Prediction) has Relation, and to what Thing or Per-

son it relates, where two, &c. are mentioned. B. 1. 153. b. 8. 57, 74, 75, 91. b. 9. 47, 48. b. 10. 63, 64, 106, 129, 138. b. 11. 50, 51.

What Relation is, and the Definition, or Description of it. B. 3. 29. b. 4. 42.

Where Words subsequent shall have Relation to a Thing mentioned before in the Premises, tho' the Word Prediction be omitted, or not, and how. B. 1. 85. b. 4. 44. b. 8. 55. b. 11. 62.

How the Words (*idem, eadem, eundem, or ejusdem*) shall have Relation, where two Things are mentioned before. B. 8. 32. b. 10. 124.

How the Words (*qui, quæ, quod, vel quem, quas, quos, or cuius*) have Relation. B. 8. 151, 154, 155.

Where Words relative shall have Relation to the next Antecedent, or not. B. 8. 119, 154, 155. b. 9. 47, 53. b. 10. 106.

How this relative, or copulative (And) shall have Relation. B. 4. 41, 50. b. 8. 85. See Tit. *Exposition, and Condition*.

How the Words (*juxta*) shall have Relation. B. 6. 73. b. 10. 132.

How the Words (*sub, or super*) shall have Relation. B. 6. 73.

How the Words (*ibi, or ibidem*) shall have Relation. B. 4. 41, 42.

How this Word (*quondam*) shall have Relation, and to what Time. B. 2. 47. b. 10. 59, 62. See Tit. *Cui in vita*.

How the Words (*ad tunc*) shall have Relation. B. 4. 41.

How this Word (*pro*) shall have Relation. B. 3. 53.

How this Word (*nuper*) shall have Relation. B. 2. 47.

How the Words (Which after the Death) shall have Relation. B. 3. 53.

How the Words relative (*tunc, nunc, ad tunc, ex tunc*) shall be referred, and to what Time. B. 5. 1.

How the Words (*talis or qualis, talia or qualia*) or (such) in *English* shall have Relation in Statutes and Deeds. B. 1. 137. b. 4. 17, 18. b. 6. 33. b. 7. 33. b. 9. 23, 29, 30. b. 10. 104. b. 11. 33.



How the Words (at, about, before, within, or in the Feast) shall have Relation. B. 1. 154. See Tit. *Computation*.

How the Words (from the Day of the Date, Date, Day of making, &c.) shall be intended, and have Relation. B. 5. 2 p. 1, 49. b. 10. 41. See Tit. *Exposition*.

How the Time to pay Monies one Month, or &c. after any of the Feasts in which it was to be paid, shall be accounted, and relate. B. 10. 119. See Tit. *Computation*.

How the Words (Six Months upon the Statute of Inrollment shall be accounted and have Relation. B. 5. 2 p. 1. See Tit. *Inrollments*, and *Accounts*.

How these Words (*in, apud, de, or ex*) in a Writ, or Grant have Relation, and be construed. B. 7. 41, 42. See Tit. *Charge*, and *Exposition*.

How the Words (reasonable Warning) have Relation. B. 1. 176. See Tit. *Exposition*.

How those Words (or otherwise) shall have Relation in Statutes, or &c. B. 4. 3. b. 6. 76. See Tit. *Exposition*, and *Statutes*, 32 H. 8. c. 1.

How those Words (*uterque, utrumque, quilibet, or quemlibet*) shall be referred. B. 5. 2 p. 19, 103. See Tit. *Exposition*, and *Obligation*.

How the Word (*alibi*) shall be referred, and to what Place it shall have Relation. B. 10. 65. See Tit. *Exposition*.

How the Words (from, or to the Feast of S. M.) where there are Two Saints of this Name, shall be referred, and to what Feast they shall have Relation. B. 11. 39. See Tit. *Exposition*.

How this Word (*Homo*) shall be intended, and where it shall refer as well to a Woman, as to a Man. B. 6. 52. See Tit. *Exposition*.

Where the Death of a Man in saving the Stroke shall have Relation to the Time of the Stroke, or not. B. 1. 99. b. 4. 42, 47. b. 5. 2 p. 9, 39.

Where Indentures to guide an Assurance subsequent, shall direct the Assurance precedent by Relation of

Time, or not. B. 1. 99, 100, 105. b. 2. 73, 74 to 78. b. 3. 83. b. 5. 2 p. 26. b. 9. 9 to 11, and 15. See Tit. *Uses*, b. 8. 119.

To what Day a Writ shall have Relation, &c. B. 5. 2 p. 48. See Tit. *Writ*, and *Day*.

Where Execution shall have Relation, and to what Time. B. 1. 99. b. 7. 39.

To what Day Matter of Record, as the King's Patent, or other Thing of Record, &c. B. 1. 99.

To what Time an Act to be done upon Condition shall have Relation when it is done. B. 1. 99, 155. See Tit. *Condition*.

How, and to what Time Deeds shall have Relation, &c. B. 2. 5. b. 3. 26, 35. See Tit. *Deeds*.

How the Words (*ubicunque, and quando, unque*) have Relation in Deeds, or &c. B. 1. 87. See Tit. *Exposition*.

How the Words (during the Term) shall have Relation, and be construed. B. 1. 155. b. 8. 145. See Tit. *Exposition*.

How the Words (*ipso facto*) in Deeds or Statutes shall have Relation. B. 5. 3. See Tit. *Exposition*.

How the Words (next Advowson) shall have Relation. B. 8. 144. See Tit. *Exposition*.

How the Word (Depending) in Acts of Parliament shall have Relation. B. 5. 2 p. 47, 48. b. 7. 30. See Tit. *Exposition*.

How those Words (during Life) &c. shall have Relation. B. 2. 48, 50. b. 3. 37. b. 4. 73. b. 5. 2 p. 9, 13. b. 11. 34, 46, 80. See Tit. *Exposition*.

How the Words (next of Blood) shall have Relation. B. 3. 39, 40, 61. See Tit. *Exposition*.

How the Words (during Minority) and to what Time they shall have Relation. B. 5. 2 p. 9, 29 twice. b. 6. 63, 67. b. 8. 135. See Tit. *Administration*, and *Exposition*.

How the Words (within Ten Years, or within the Term of Ten Years) shall have Relation, and shall be construed. B. 1. 153, 154. b. 8. 144, 145. See Tit. *Exposition*.

How the Word (Having) in Statutes shall have Relation. B. 3. 31. b. 10. 80 to 84. See Tit. *Statutes*, 32 H. 8. c. 1. and *Expofition*.

How the Words (*ufque*; or *quoufque*) shall have Relation. B. 3. 19, 20. b. 4. 82. b. 5. 2, 94. b. 10. 41. See Tit. *Expofition*.

How the Words (from henceforth) shall have Relation. B. 5. 2 p. 1.

How the Words (maintenant, or immediately) shall have Relation. B. 3. 28, 33, 34. b. 7. 45. b. 8. 119, 120. See Tit. *Expofition*.

How a Surprife in a Writ shall refer, and to what Thing. See Tit. *Writ*, and *Exception*.

Where Inditements shall be good by Words relative, and how the Words shall be referred in them. See Tit. *Inditements*.

Where a Writ, Count, Bar, or Replication shall be good by Intendment and Relation of Words, or not. See Tit. *Entendment*.

How, and to what Time a Condition shall have Relation, when it is broken. See Tit. *Condition* twice.

How and to what Time an Act of Parliament shall have Relation, if no Time be limited. See Tit. *Parliament*.

How Agreement, or Difagreement shall have Relation from the Beginning. See Tit. *Agreement*.

Where and to what Intents and Purposes Attornment shall have Relation. See Tit. *Attornment*.

How, and to what Time Inrollment of a Deed shall have Relation. See Tit. *Inrollment*.

How, and to what Time Forfeiture upon Attainder by Outlawry, or &c. shall have Relation for Forfeiture of Goods, and Land. See Tit. *Forfeiture*.

How the King's Grant to have Franchise, and &c. in all Lands, shall have Relation, and to what Lands it shall refer. See Tit. *Grant of the King* twice.

How, and to what Time an Office found before the Efcheator, shall have Relation. See Tit. *Office before the Efcheator*.

Where Inftitution and Induftion to a Church in Time of Peace shall have Relation to the Prefentation in Time of War. See Tit. *Q. Impedit*.

Where Death of a Mafter heretofore, by one that was his Servant heretofore is pety Treafon by Relation of Time. See Tit. *Crown*.

How the Probate of a Teftament shall have Relation, and to what Time. See Tit. *Teftament*.

Relation and Operation of Law, where two, or more having feveral Eftates, or Rights join in Affurance and Conveyance to another, and who shall be preferred. See Tit. *Confirmation*.

How, and to what Time Deprivation shall have Relation. See Tit. *Deprivation*.

Where Livery and Seifin upon Feoffment of Lands in feveral Counties shall have Relation, and how, &c. See Tit. *Feoffments*, and *Refervation*.

How, and to what Time the Repeal of an Act of Parliament, and Reftitution by it shall have Relation. See Tit. *Parliament* twice, and *Repeal*.

Where Relation by Recital to a Thing not in Being, and where no fuch Thing was, makes all void. See Tit. *Recital*.

Releases.

What Words amount to a Release. B. 9. 52, 53.

Where a Release extinguifhes and bars Right accrued of latter Time after the Release made, or not. B. 1. 99, 111, 112. b. 5. 2 p. 28, 70, 71. b. 8. 153. b. 10. 45, 48, 51. See Tit. *Confirmation*, *Entry congeable*, *Feoffments*, *Day*.

Where a Release shall enure by Way of enlarging an Eftate, without Words of enlarging, or not. B. 2. 92. b. 3. 85. b. 6. 76. See Tit. *Confirmation*, *Join-tenants*, and below.

Where a Release to a Man of all Debts and Actions which he has againft him, and another, extends to a fole Debt. B. 5. 2 p. 7; 56. See Tit. *Charter*, and *Join-tenants*.

Where a Release enlarges not an Estate, tho' it have Words of Enlargement in the Deed, and where it enlarges according to the Words of Enlargement. B. 2. 24. b. 3. 85. b. 9. 139. See Tit. *Confirmation*.

Where a Release to one enures to another, and he shall have Benefit of it, and how, or not. B. 1. 112. b. 2. 24. b. 3. 53. b. 5. 2 p. 71, 81, 117. b. 8. 54. b. 10. 93. See Tit. *Parson*.

Where a Release is void, because of Want of Possession in him to whom it is made, and what is sufficient Possession, what not. B. 1. 87. b. 3. 29. b. 4. 25. b. 5. 2 p. 71, 81, 124. b. 8. 63, 151, 152. b. 10. 48.

Where a Release to the Vouchee, and by whom is good, by whom not. B. 2. 29. b. 5. 2 p. 71. b. 8. 151, 152. b. 10. 48.

Where a Release to the Tenant in Law by Supposal of a Writ is good, tho' he want Possession at the Time of the Release made. B. 1. 111. b. 3. 29. b. 8. 151, 152. b. 10. 48.

Where a Release to him in Reversion or Remainder is good, or not. B. 1. 112. b. 5. 2 p. 71. b. 8. 63, 131. b. 10. 48.

Where a Release of a Remainder or Reversion is good, and enures according to the Words of the Release, or not. B. 3. 85.

Where a Release to a Patron in the Time of Vacation is good, and extinguishes an Annuity issuing out of the Church, and the Parson shall take Avail of it. B. 1. 112. b. 5. 2 p. 71, 81.

Where a Release makes a Degree, and he to whom it is made, shall be supposed in the *Per* by him that released, or not. B. 6. 79. See Tit. *Entry*.

Where a Release by one Join-Tenant to his Companion is good. B. 8. 63. See Tit. *Join-Tenants*.

Where a Release to him that has but a Term of Years, is good without Privy, &c. or not. B. 10. 48.

Where a Release to the Husband alone shall enure to the Wife. B. 2. 24. b. 8. 54. See Tit. *Baron and Feme*.

Where a Release upon Condition is good, going in Extinguishment of

Rent, Right, or &c. B. 4. 9. See Tit. *Condition*.

Where Release of a Thing incident to a Seigniori, reserved and saved by the Deed of Release, is good, or not. B. 8. 154. b. 9. 123. See Tit. *Appendant*.

Where a Release is void, because of Reservation, or not. B. 2. 73. b. 9. 123.

Where a Release, or Confirmation extinguishes a Condition, or not. B. 1. 147. b. 9. 140, 142. See Tit. *Confirmation*.

Where a Rent shall be enlarged by Confirmation, or Release. B. 1. 147. b. 5. 2 p. 15. See Tit. *Confirmation, and Grant*.

Where Release of Right in Land extinguishes Rents, Services, &c. or not. B. 3. 29. b. 6. 1. b. 7. 39. b. 8. 151, 154. b. 10. 48.

Where a Release extinguishes a Right for a certain Time, or not. B. 5. 2 p. 81. b. 8. 151, 152.

Where a Release of Actions Real or Personal extinguishes an Action mixt such, where it may be doubted whether it be real, or personal, or not. B. 2. 68. b. 8. 151.

Where a Release of Actions real, and personal, or of all Actions extinguishes not, nor bars in a Writ of Error. B. 1. 13, 16. b. 6. 25. b. 8. 152, 154. See below, and *Error*.

Where Execution may be released and discharged, and by what Words in a Deed, and where a Release of Actions extinguishes Execution, and bars, &c. B. 6. 13, 25. b. 8. 152, 153. b. 10. 48 to 53. See Tit. *Scire facias*.

Where Release of all Actions extinguishes not Right of Entry, nor Seizure of Goods. B. 8. 151, 152. b. 10. 51. b. 11. 2.

Of all Demands, how to be taken, and what Things are discharged and extinguish'd by it. B. 1. 112. b. 5. 2 p. 56, 71. b. 8. 150, 153, 154. b. 10. 47, 50, 51. b. 11. 82.

Where a Release of the Husband extinguishes, &c. the Right and Action of the Wife for ever, or not. B. 5. 2 p. 27. b. 9. 85. b. 10. 48 to 53. See Tit. *Baron and Feme*.

Where

## Releases.

Where a Release of all Advantages bars in Account before Auditors, or Debt upon Account. B. 8. 152. See Tit. *Account*.

Where a Release of all Errors bars in a Writ of Error. B. 1. 13, 16. b. 6. 25. b. 8. 152. See above, and Tit. *Error*.

Of all Quarrels what is released, what not. B. 8. 153, 154.

Of Suits, what is released, what not. B. 8. 153, 154.

Of all Duties, what is released. B. 8. 153.

Of all Warranties extinguished. B. 8. 154. See Tit. *Warranty*.

Of all Actions what is extinguish'd and released, what not. B. 1. 112. b. 4. 63. b. 5. 2 p. 7, 28, 56, 71. b. 8. 151, 152, 153. See Above.

Where and what Release by Tenant in Dower to him in Reversion is good, and bars her of Dower, what not. B. 1. 112. b. 5. 2 p. 71. b. 8. 151 to 154.

Where the Executors release before Proof of the Testament is good, or not. B. 5. 2 p. 28, twice. b. 9. 38, 39, twice. B. 10. 52.

Where Debt is extinguished and released, because the Obligee makes the Obligor his Executor, and contrary, or not. B. 8. 136, 137. See Tit. *Executor*, the like, and *Extinguishment*.

Where Debt is extinguished and released by Intermarriage betwixt the Obligor and Obligee. B. 8. 136, 137. See Tit. *Extinguishment*, and *Baron and Feme*.

Where Release of one Executor bars all. See Tit. *Executors*.

Where by Release of the Lord Paramount to the Tenant Paravail the Mesnalty is extinguished. See Tit. *Confirmation*, and *Extinguishment*.

Where Release of one Join-Tenant or Tenant in Common bars his Companion. See Tit. *Join-Tenants*.

Where Release shall be void, and avoided, because of Collusion. See Tit. *Collusion*.

Where Release or Acquittance shall be in a Writ of Annuity. See Tit. *Annuity*.

Where one Join-Tenant grants a Rent-Charge, and after releases to his Companion, it shall be held recharged after the Death of the Leasor. See Tit. *Charge*, and *Join-Tenant*.

Where the King's Charter of Pardon of all Debts extinguishes as well Joint Debts, as Debts several. See Tit. *Charter*.

Where Release of a Woman covert is not good for any Thing in her own Right, nor as she is Executrix. See Tit. *Baron and Feme*, and *Acquittance*.

Where a Release by an Infant is good, or not. See Tit. *Acquittance*, and *Infant*.

Where a Deed, or Release bearing Date after the Delivery of it is good. See Tit. *Deeds*.

Where a Deed of Release is good, notwithstanding Misnaming, &c. See Tit. *Grants, Deeds, Misnaming*, and *Recital*.

Where the King's Tenant may release &c. without Licence. See Tit. *Licence*.

Where Release of one not Executor shall extinguish the Action or Debt of another who is Executor. See Tit. *Baron and Feme*, and *Acquittance*.

Where the Plaintiff in Action may release Damages and pray Judgment of the Principal, or to one Defendant, and pray Judgment against the other, and where no Judgment shall be of the Principal without Release of the Damages. See Tit. *Damages*, and *Judgment*.

The Form of pleading a Release, or Confirmation. See Tit. *Pleadings*.

Where a Release may be pleaded, without shewing the Deed of it. See Tit. *Monstrance of Deeds*.

Where a Man shall have Avail of a Deed in pleading it as a Release, or Confirmation, &c. at his Election. See Tit. *Election*.

Where a Deed of Release shall be void in Part, or against one, and good for another Part, or to another. See Tit. *Deeds*.

Where a Debt shall be released by an Administrator as Executor, or by an Administrator where he is made

*Relief. Remainder and Reversion.*

**Executor, or not.** See Tit. *Executors, and Extinguishment.*

Where the Ordinary's Release bars not the Administration. See Tit. *Ordinary.*

Good, of the Right of a Copyhold. See Tit. *Copyhold.*

Where a Defeasance shall avail as a Deed of Release, to avoid Circuity of Action, or not. See Tit. *Circuity of Action, and Defeasance.*

Where Release of the Ancestor collateral bars. See Tit. *Warranty, Eschewment, &c.*

Where a Release by the Head of a Corporation solely bars the Successor, and the whole Corporation forever, or not. See Tit. *Corporation.*

*Relief.*

What Sum of Money shall be paid for Relief, for Land held by Knight-Service, by Socage Tenure, and Grand Serjeanty. B. 7. 33, 34. b. 9. 124.

What Sum of Money shall be paid for Relief of a Knight, Baron, Earl, or Duke. B. 7. 33, 34.

Where Debt lies and shall be maintained for Relief, and by, and against whom. B. 4. 45. b. 3. 66. See Tit. *Debt.*

Where Relief shall be for Descent of a Remainder, and when. See Tit. *Ward.*

Where Relief shall be paid by the Heir, who is in, and comes to the Land by his own Purchase. See Tit. *Ward, and Collusion.*

Where Relief shall be paid by the Heir in Tail, after Discontinuance of the Tail. See Tit. *Ward.*

Where the King shall have Relief upon Primer Seisin, &c. and how. See Tit. *Prerogative, and Livery.*

Where Acceptance of Rent, or Services by the Lord from the Feoffee, or Heir, bars to have Relief. See Tit. *Acceptance.*

Where Acceptance of Relief bars the Lord to have Forfeiture of Marriage. See Tit. *Of Marriage, and Assurance.*

Where Relief is not taken within the Statute of *Marlb. of Feoffment by Collusion.* See Tit. *Collusion, and Statutes, Marlb. c. 6.*

Where Relief is due, and to be paid by the Statutes 32 and 34 *H. 8.* See Tit. *Statutes, and Ward.*

*Remainder and Reversion.*

Where a Remainder is good upon Condition, or Contingency, and where it passes presently by the Livery, where not till the Condition be performed, or the Contingency happen. B. 1. 84, 85, 99, 130, 133, 137, 154, 155, 156. b. 3. 25, twice. b. 6. 35, 36. b. 7. 10. b. 8. 75. b. 10. 85, 86. See Tit. *Condition, twice.*

Where a Remainder shall be good without a particular Estate precedent, and tho' that be void in Law, or otherwise defeated and gone, and when the Remainder shall begin. B. 1. 101, 135, 154. b. 2. 51, 52. b. 3. 20. b. 8. 75. b. 9. 20.

Where a Remainder in Fee, or *Et. dependant* and limited upon an Estate for Years, or at Will precedent, is good, or not. B. 1. 130, 135. b. 3. 29. b. 5. 2 p. 94. b. 8. 75. See Tit. *Condition, and Abeyance.*

Where a Remainder not taking Effect, nor executed in due Time is void, and what is good and due Time to execute it, what not. B. 1. 66, 127 to 130, 134, 135, 138, 154. b. 2. 51. b. 3. 20, 21. b. 8. 75. b. 10. 85, 86.

Where a Remainder is void, because repugnant to the Estate particular, and what is a Remainder repugnant, what not. B. 1. 84, 85, 86. b. 10. 86, 87.

Where a Remainder of a Rent newly created out of Land, is good. B. 2. 70, 76, 78.

Where an Estate limited by Name of a Remainder shall be taken as a Reversion. B. 1. 54, 61, 78, 83, 95, 120, 175. b. 2. 10, 50, 91. b. 3. 25, 51, 83. b. 6. 17, 18. b. 10. 78, 95.

Where a Remainder shall be of a Chattel, &c. B. 4. 66. b. 8. 95, 96. b. 10. 47, 52, 87. See Tit. *Chattels.*

Where

## Remainder and Reversion.

Where a Remainder limited to the right Heirs, right Heirs of the Body, or Issue in his Mother's Belly, or to a Person not in Being, nor known at the Time &c. shall be good, and they shall take an Estate, and when. B. 1. 67, 95, 98, 103, 104, 130, 134, 135. b. 2. 51, 91. b. 3. 61. b. 5. 2 p. 8. b. 10. 50, 51. See Tit. *Capacity*, and *Infant*.

Where a Remainder limited to the right Heirs, vests in the Party himself, and not in the Heir as Purchaser, and where contrary. B. 1. 83, 120. b. 2. 50, 61, 91. b. 9. 129, 131. b. 10. 51, 78, 79. See Tit. *Capacity*.

Where a Remainder granted by the Name of a Reversion, or contrary, shall be good, and pass, or not. B. 5. 2 p. 10. 124.

Where a Remainder is limited to L. S. there being two of the Name, which of them shall have it. B. 5. 2 p. 68.

Where a Grant of a Fee-simple by the Name of a Reversion, or Remainder is not good, and where the Grant of a Reversion is not good. B. 2. 61, 67, 91. b. 3. 4, 5, 85. b. 4. 66. b. 5. 2 p. 124. See Tit. *Grants*, *Name*, and *Misnaming*.

Where a Remainder in Fee, or Tail, upon another particular Estate to the same Person is good, and when it shall be said executed. B. 1. 41, 45, 49, 76, 95, 104, 128, 130. b. 2. 17, 60, 61, 92. b. 3. 5. b. 5. 2 p. 13, 40. b. 6. 72. b. 8. 74, 75, 90. b. 9. 132, 134. b. 10. 52, twice. b. 11. 80, 81. See Tit. *Estates*, and *Mortdancer*.

Where a Remainder limited to himself shall be good, or not. B. 1. 127. See Tit. *Reservation*, and *Fines*.

Where he in Remainder, or Reversion may falsify a Recovery had against the Tenant for Life. See Tit. *Falsifying of Recovery*. B. 1. 16, 62. b. 3. 61. b. 6. 8. b. 10. 39, 44, 45.

Where after Recovery had, or Re-entry for the Lessee for Life, or &c. after Feoffment made by him in Reversion, the Reversion, and the Remainder in the Feoffee. B. 2. 56, 68. b. 5. 2 p. 113. b. 6. 69, 70. See Tit. *Attornment*, and *Feoffment*, twice.

Where a Remainder for Years after an Estate for Life, or &c. to the same Person shall be good. B. 1. 120. See Tit. *Estates*.

Where a Remainder shall be void for Default of Capacity in the Person to whom, &c. B. 2. 51. See Tit. *Capacity*.

Where a Grant, Lease, or &c. made by him in Reversion, or Remainder, is good, and when it shall begin, and how, and where not. B. 1. 62, 127, 128, 154, 155. b. 2. 35, 52, 55, 91. b. 3. 7, 8, 81, 84, 85. b. 4. 53. b. 5. 2 p. 2, 7, 81, 94, 123, 124. b. 6. 35, 36. b. 8. 70, 73, 93, 94. b. 10. 85, 106. b. 11. 98. See Tit. *Grant*, *Leases*, and *Charge*.

Where the King's Grant by the Name of a Reversion is good, and where his Reversion passes by another Name, as Land, or &c. B. 1. 45, 51. b. 4. 35. b. 6. 55, 56. b. 8. 55, 57, 167. b. 10. 63. See Tit. *Grant of the King*.

Where a Remainder limited to the Son, vests in the Bastard, as the Reputed Son, or not. B. 6. 64. See Tit. *Bastardy*, *Capacity*, *Name*, and *Reputation*.

Where the Act of the particular Tenant of a Stranger destroys a Remainder for ever, and what Act, or Means, what not. B. 1. 15, 38, 62, 63, 66, 67, 120, 121, 127, 130, 134, 135, 136. b. 2. 52. b. 3. 5, 6. b. 5. 2 p. 94. b. 6. 8, 42. b. 8. 75, 95, 96, 145. b. 10. 43, 44, 47, 52. See above, *Chattels*, *Contingency*, and *Condition*.

Where and by what Act and Means the King's Reversion, or Remainder may be devested and discontinued. B. 1. 16, 76. b. 2. 53. b. 6. 8. See Tit. *Discontinuance*, and *Statutes*, 34 H. 8. c. 20.

Where a Remainder of an Estate limited to take Effect in Time future, as in Abeyance. See Tit. *Abeyance*.

Where he in Reversion, or Remainder shall hold charged upon the Tenant for Life's Grant after his Surrender. See Tit. *Charge*.

Where and when the Heir of him in Remainder shall be in Ward. See Tit. *Ward*.

Where Feoffment of the Tenant in Remainder by himself, or jointly with the particular Tenant for Life, is a Forfeiture, or not. See Tit. *Forfeiture*, and *Exposition*.

Where and what shall be Discontinuance of an Estate-Tail in Reversion, or Remainder. See Tit. *Discontinuance*.

Where the Rent passes by Grant of the Reversion. See Tit. *Grant*.

Where he in Reversion, or Remainder shall be received upon Default, or &c. of the Tenant for Life, or &c. See Tit. *Rescissit*.

Where Tenant in Tail the Remainder to his right Heirs may grant the Fee-simple to another. See Tit. *Grant*.

Where the Donor may grant the Reversion of the Tenant in Tail. See Tit. *Grant*.

Where Waste lies and shall be maintained by him in Remainder, or by Tenant in Tail, or Fee, upon a Lease made by them for their own Lives. See Tit. *Waste*.

Of Formedon in Remainder, and Reverter, and Counts, and Bars in them. See Tit. *Formedon*.

Where Remainder in Fee cannot be upon another Estate in Fee. See Tit. *Estates*.

Where Warranty shall be, because of a Reversion and Voucher for it. See Tit. *Counterplea of Warranty*.

Where Relief shall be paid for Defect of a Remainder, and when. See Tit. *Relief*.

Devise in Remainder, where good, and to whom, and when it shall take Effect. See Tit. *Devise*.

Where a Release to him in Reversion, or Remainder is good. See Tit. *Release*.

Where Recovery in Value by Tenant for Life, or Tenant in Tail, shall go to him in Reversion, or Remainder, and vest an Estate in them. See Tit. *Recovery in Value*.

Where a Feoffment by him in Reversion or Remainder is good, or not. See Tit. *Feoffments*.

Where Assize lies for him in Re-

version upon the Outing of his Lessee for Years. See Tit. *Assize*.

Where and when Attaint lies for him in the Reversion. See Tit. *Attaint*.

Where and when a Writ of Error lies for him in Reversion, or Remainder. See Tit. *Error*.

Where Grantee, or Assignee of a Reversion shall enter for a Condition broken. See Tit. *Condition*.

Where a Confirmation shall enlarge an Estate in Rent, of which there was no Reversion at the Time of it. See Tit. *Confirmation*, and *Grant*.

Where Esplees shall be alledged in the Donee only, or in the Tenant for Life, where the Remainder is limited over in Fee-Tail, or in Fee. See Tit. *Esplees*.

Where Usurpation made upon the Tenant for Life, Years, or in Tail of Church, shall not put him in Reversion out of Possession. See Tit. *Q. Impedit*.

Where Presentation to a Church by Tenant for Life, Years, or Guardian, &c. shall be Seisin to him in Reversion. See Tit. *Q. Impedit*.

Where Writ of Covenant lies and shall be maintained against him in Reversion, or his Grantee. See Tit. *Covenant*, and *Assignee*.

How by Grant or Fine levied of Lands, or Tenements, the Reversion passes. See Tit. *Grants*, *Fines*, and *Exposition*.

Where *Scire facias* lies not for him in Reversion, or Remainder, to execute a Fine. See Tit. *Scire facias*.

Where Reservation of Rent upon a Grant, or Lease of a Reversion shall be good, and when it shall begin. See Tit. *Reservation*, and *Grant*.

Where Livery shall be sued by the Heir for a Reversion descended to him, and when. See Tit. *Livery*, and *Prerogative*.

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Certain

## Remitter. Removing and Remanding. Rents.

Certain Rules and Principles to be observed for the Creation and Effect of Remainders. B. 1. 66, 129, 130, 134, 138. b. 2. 51. b. 3. 20.

### Remitter.

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### Removing and Remanding.

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Where the Record it self shall not be removed, but the Tenor and Transcript of it, where the Justices will hold Plea upon the Tenor, or upon the Tenor of the Tenor of a Record. B. 5. 2 p. 39, 43, 53. See Tit. *Record, Exemplification, and Monstrance of Deeds*.

Where a Record shall be removed out of the Chancery to the King's Bench to try the Issue joined there, and after remanded. B. 9. 99. See Tit. *Courts*.

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Where a Joint Grant of Rent becomes several by Construction of Law. See Tit. *Grants, and Reservation.*

Reserved upon a Lease of Land in several Counties, how it shall issue and be construed. See Tit. *Reservation, Feoffments, and Relation.*

Where a Rent reserved upon a Lease made by one Join-Tenant, shall not go to his Companion. See Tit. *Join-Tenants.*

Where Rent reserved upon a Lease for Years, made by Tenant for Life, who after surrenders to the Lessor, shall not go to the Lessor. See Tit. *Surrender, and Reservation.*

How the Plaintiff in Affize shall be made of Rent, and where the Words (with the Appurtenances) shall be put into the Plaintiff, or not. See Tit. *Plaint.*

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What shall be Possession and Seisin of Rent to make the Sister Heir, what not. See Tit. *Discent.*

Where and what shall be Discontinuance of Rent. See Tit. *Discontinuance.*

Where the Plaintiff in Affize of Rent must make Title in the Plaintiff, or not. See Tit. *Plaint.*

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upon a Lease for Years, or &c. and how the Demand shall be made, and what is good, where, and what not. See Tit. *Demands, and Conditions* twice.

Where Rents shall be extinguished by Unity of Possession of the Land out of which, &c. or not. See Tit. *Extinguishment.*

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Where Debt lies for Arrearages of Rent, and by and against whom. See Tit. *Arrearages, and Assignee, and Stat. 32 H. 8. 37.*

Where the Lord need not change his Avowry upon the Feoffee, without Tender of the Arrearages of Rent. See Tit. *Avowry.*

Where Acquittance, or Release for Rent due the last Feast or Day of Payment excludes from the Arrears of other Days, or not. See Tit. *Arrearages.*

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*Rents. Repeals. Repleading.*

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Where a Rent granted upon Condition or Contingency to cease is good, and it shall cease for a certain Time. See Tit. *Condition.*

Where a Man shall be Tenant by Courtesy of Rent, and what is sufficient Seisin and Possession to make him Tenant by the Courtesy, what not. See Tit. *Courtesy.*

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Where Rent granted upon Partition in Allowance of Surplusage is good, and how it shall be construed. See Tit. *Partition*, and above.

Where Joint-Reservation of Rent, &c. shall become several by Act of the Parties, or of Law. See Tit. *Reservation.*

Where a Rent reserved upon a Lease for Years, &c. shall be extinguished by Feoffment of him in Reversion, or not. See Tit. *Extinguishment, Debt, Reversion, Attornment, and Feoffment.*

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Where one Statute repeals another by general Words and Intendment of the Law, without express Words of Repeal. B. 1. 25. b. 2. 46. b. 3. 87, 88. b. 5. 5. b. 6. 20, 76. b. 8. 128, 137. b. 10. 138. b. 11. 59 to 64. See Tit. *Parliament.*

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Where Repleading shall be anew upon Reattachment, or Resummons after the King's Demise, or not. B. 7. 25, 30, 31. See Tit. *Reattachment*, and *Resummons*, and Stat. 1 E. 6. c. 7.

*Replevy.*

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Form of Replication in Debt against Executors, or Administrators, and what is good, what not. B. 6. 47. b. 9. 108, 109, 132.

Form of Replication in Debt against the Heir upon Plea in Bar, nothing by Discent, and what is good, what not. B. 5. 2 p. 50. b. 6. 46.

Form of Replication in a *Q. Impedit*, where the Defendant makes Title to a Church as appendant, and where the Appendancy shall be traversed. See Tit. *Issues joined*.

Form of Replication in Trespass when Regress is alledged, and where the Plaintiff ought to shew Regress to punish the mean Trespass, or not. See Tit. *Trespass*.

Where of his own Wrong without such Cause, without Answer to the special Matter alledged, shall be a good Replication, or not. See Tit. *Issues joined*.

What

*Replication. Reparation, &c.*

What Replication is good where ancient Demean is pleaded. See Tit. *Antient Demean*.

Where the Plaintiff shall abate his Writ by his Replication, and own Shewing. See Tit. *Writ*.

What is a good Replication where the Defendant justifies in another Place than the Plaintiff supposed. See Tit. *Bar*.

Where a Plea in Bar not good shall be made good by the Plaintiff's Replication, or not. See Tit. *Pleas*.

Where the Verdict makes a Replication or Rejoinder naught, good. See Tit. *Pleas*.

What is a good Replication in Action of Waste, what not. See Tit. *Waste*.

Where Replication is not good without alledging the Year, Day, and Place, &c. See Tit. *Pleadings*, and *Issue joined*.

The Form of Replication, or Rejoinder where the Pleading is in the Affirmative. See Tit. *Pleadings*.

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Where Replication in the Affirmative without traversing the Bar is good, and Traverse shall be taken to it, because of Trial. See Tit. *Issues joined*.

Where and what is a good Replication to maintain a Writ against Join-Tenancy, Non-tenure, or &c. See Tit. *Maintenance of Writ*.

Form of Replication when a Thing is alledged in Bar to be done beyond Sea. See Tit. *Enquest*, and *Issues joined*.

The Manner and Form of Replication by the King's Attorney upon Informations. See Tit. *Informations*.

Replication against Misnaming a Person, Town, or Place to maintain a Writ, and what is good, what not. See Tit. *Maintenance of Writ*, and *Trial*.

Where Replication to maintain a Writ shall be good, known by the one Name, or the other, against Misnaming pleaded. See Tit. *Maintenance of Writ*.

Of Replication and Rejoinders, see two notable Precedents, long, and intricate. B. 1. 71, 73, 107, 110.

Certain Rules for Replication, upon which they ought to be certain. B. 5. 2 p. 121. b. 8. 57.

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Replication with Traverse to a mean Conveyance, where good. See Tit. *Issues joined*.

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Where Action of the Case lies for not repairing Banks, or making Clofures, in Default of which the Plaintiff is damnified. B. 10. 139, 140. See Tit. *Action of the Case*.

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Of Inditements and Presentments for not repairing Bridges, or Highways, or scouring Ditches, &c. where they shall be traversed, where not. B. 8. 46, 47. b. 9. 112, 113. See Tit. *Bar*, and *Enditements*.

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Where and who are bound to repair Banks, scour Ditches, &c. by Reason of Tenure, who not. See Tit. *Bar*, *Enditements*, above, and *Sewers*.

Where Commissions shall be awarded to inquire of Decay of Castles, Towns, Houses, or &c. and who ought to repair them. See Tit. *Commissions*.

Where Cutting of Wood for Reparations bars and justifies in an Action of Waste. See Tit. *Waste*.

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Reparation of a Church. See Tit. Consultation.

Where a By-law touching Reparation of a Church, and Contribution to it, shall be good. See Tit. *By-laws*, and *Consultation*.

Of Commission of Sewers, and their Authority in Taxations, touching Repairing of Banks, &c. See Tit. *Sewers*, and *Commissions*.

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Where the *Habendum* in Deeds is void, because repugnant, and what shall be said repugnant, what not. B. 2. 23, 52, 55. b. 5. 2 p. 94. b. 6. 36. b. 8. 56, 93, 154. b. 9. 47. See Tit. *Deeds*.

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by Reputation shall be taken and confirmed within the Statutes 31 H. 8. and 1 E. 6. B. 11. 13, 14. See Tit. *Statutes*.

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Where Son is a sufficient Name of Reputation to make a Bastard take an Estate in Lands, or &c. by Purchase, or not. B. 6. 65, 67. See Tit. *Bastardy*.

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Where he that finds Goods, and delivers them not to the Owner upon Request, shall be a Trespasser from the Beginning. B. 10. 56, 57. See Tit. *Action of the Case*.

Where upon Tender of Amends for Damage done by Beasts, and Request to have his Beasts delivered, the Owner shall recover Damages for Detaining after. B. 8. 147. See Tit. *Replevy*.

Where the Sheriff to do Execution may enter the House of another after he has requested, not before. B. 5. 2 p. 91. See Tit. *Officers*.

Where the Tenant paravail ought to request the Mesne to acquit him before he has the Writ of Mesne. B. 9. 21, 22, 110, 111. See Tit. *Mesne*.

Where

Where the Bishop is bound to admit a Clerk presented to him upon Request made. See Tit. *Quaveron admittit*, and *Q. Impedit*.

Where Issue shall be taken and joined upon Request. See Tit. *Tender*, and *Refusal*.

*Resceit.*

Where Resceit lies not in Affize of Novel Disseisin. B. 8. 50. b. 11. 39.

Where Resceit shall be granted in the Writ of Admeasurement of Pasture. B. 11. 39.

Where the Wife shall be received upon Default of her Husband, and when. B. 11. 39. See Tit. *Statutes*, W. 2. c. 3, 4.

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Where Resceit shall be granted to him in Reversion upon Default of Tenant in Tail, or not. B. 1. 84. b. 3. 4, 6. b. 10. 44. b. 11. 80.

Where Resceit shall be granted to him in Reversion upon Default of Tenant in Tail, after Possibility of Issue extinct. B. 10. 44. See Tit. *Tail after*, &c.

Where he that has but a particular Estate in Reversion shall be received, and he in the Reversion in Fee, where there is a mean Estate for Life. B. 10. 44, 45.

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Bar in a Writ of Rescous, and what is good. B. 4. 11.

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Where Seisin of Services are traversable in a Writ of Rescous. See Tit. *Issues joined*, and *Seisin*.

Verdict in a Writ of Rescous, and what is good, or not. B. 9. 12. See Tit. *Verdicts* at large there.

Where the Tenant may make Rescous, where the Lord distrains in his Fee, or in the Land charged to his Distress. B. 4. 11. b. 9. 22, 23.

Where Rescous shall be Disseisin of Rent, and of what Rent. B. 4. 9. See Tit. *Disseisin*.

Where a Fine shall be made to the King for Rescous done. B. 8. 59. See Tit. *Fine to the King*.

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*Reservations.*

The Word (*Salvo*) in Acts of Parliament, and Deeds how to be construed. B. 1. 30, 36, 47, 51, 52. b. 2. 73, 74. b. 6. 5, 6, 73, 76. b. 7. 20, 39. b. 8. 137. See Tit. *Exception*.

Where Reservation is good by the Word (*tenendum, reservandum, faciendum, reddendum, solvendum*) and such like, and how they shall be taken and construed. B. 6. 6, 7. b. 9. 131.

Where Reservation may be of diverse Rents, and at divers Terms, and good. B. 3. 34. b. 4. 49, 120. b. 5. 2 p. 55.

Where Joint-Reservation becomes several by Act of Law, or of the Parties, or not. B. 2. 75. b. 4. 120. b. 5. 2 p. 55, 79.

Where Reservation of a Rent out of a Reversion, or Advowson, or such like, not manurable, is good, and when it shall be good. B. 5. 2 p. 4, 17. b. 4. 53. b. 7. 23. b. 10. 59, 60.

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Where Reservation of Rent to a Stranger is good, and where contrary. B. 8. 70, 71.

Where upon several Estates made to several Men reserving Rent, the Rent shall run upon all Estates, or not. B. 10. 107.

Where the special Reservation of the Party himself destroys and extinguishes the general Intendment of the Law, or not. B. 1. 100. b. 5. 2 p. 112. b. 6. 6. b. 10. 107, 108.

Where Reservation of Parcel of a Thing granted, given, or *&c.* or of that which otherwise passes as incident, or appendant is good, or not. B. 4. 63. b. 5. 2 p. 11, 12, 25.

Where Reservation of the Profits of that which is granted, given, or *&c.* is good, or not. B. 5. 2 p. 12. See Tit. *Exception.*

Where Reservation of a less Estate than he had before the Conveyance made, is good, or not. B. 1. 127, 155. b. 2. 11, 15. b. 8. 70. See Tit. *Fines, and Remainder.*

Where the Lord by his Confirmation cannot reserve a new Rent, new Tenure, or more than the antient Services. B. 9. 142. See Tit. *Confirmation.*

Where Release is void, because of Reservation, or not. B. 2. 73. b. 9. 123. See Tit. *Releases.*

Where Reservation of new Rent, or new Services upon a Release made, is good, or not. B. 9. 123. See Tit. *Releases.*

Where Rent may be reserved upon a Bargain and Sale inrolled. B. 2. 54. See Tit. *Inrollment.*

Where Reservation to his Heirs, without reserving to himself, is good. B. 2. 53. See Tit. *Heir.*

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Where a Rent reserved by a Joint-Tenant upon a Lease made by him,

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enter, or seize without *Scire facias*, &c. See Tit. *Entry congeable*.

Where the King may seize Lands of Priors Aliens, or other Aliens, and who shall be accounted an Alien. See Tit. *Alien born*.

Where the King shall seize the Temporalties of a Bishop, and for what Causes. See Tit. *Contempt*, and *Quare non admittit*.

Where the King shall seize the Lands of his Tenant for Alienation without Licence. See Tit. *Licence*.

Where the King shall seize Lands, or &c. because of Alienation in Mortmain. See Tit. *Licence*, and *Mortmain*.

Where after Seizure by the King a Man shall have Livery with Issues, and where *Ouster la main* of the King with Issues. See Tit. *Livery*, and *Entry congeable*.

Where the King shall seize the Lands, or &c. of an Infant, because of Ward. See Tit. *Ward*, and *Prerogative*.

Where the King shall seize the Lands, or &c. of Ideots, and what Lands. See Tit. *Ideots*.

Where the King shall seize Lands, and have Primer Seisin, or not. See Tit. *Prerogative*, and *Statutes*, 32 and 34 H. 8. there.

Where the King, or other Lord cannot seize the Body of the Infant in Ward, till the Land be recovered. See Tit. *Ward*, twice.

Where and of what Things of a Villein the Lord shall be adjudged in Possession by Claim without Seizure. See Tit. *Continual Claim*.

Where an Estate, or Possession of Lands, or &c. given upon Condition shall be adjudged in the Lessor, Donor, or &c. upon the Condition broken without Entry, or Seizure, or not. See Tit. *Condition*.

Where the Lord may seize the Copyhold of his Tenant without Presentment of Forfeiture. See Tit. *Copyhold*.

Where Entry is lawful upon the King's Possession after Seizure, &c. See Tit. *Entry congeable*, *Livery*, *Intrusion*, and *Ouster la main*.

Where Entry is lawful upon the Possession of the King's Patentee after

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ter the King's Seizure, and Grant over, or not, but *Scire facias* must be sued. See Tit. *Scire facias*, *Repeal*, and *Petition*.

Where the Lordships and Rents of other Lords shall be extinct by the King's Seisin. See Tit. *Extinguishment*.

Where and what Franchises shall be extinguished by the King's Seisin, what not. See Tit. *Extinguishment*.

Where Franchises, or *&c.* seized into the King's Hand upon a Fine to the King shall be replevied. See Tit. *Replevy*, and *Quo warranto*, and *Forfeiture*.

Where the King cannot seize, *&c.* without *Scire facias*. B. 8. 169. See Tit. *Entry congeable*, and *Stat. 29 E. 1.*

Where the Property and Possession of Goods waived shall be adjudged in him that claims them, without Seizure. See Tit. *Waif*, and *Estray*.

Where the Possession of Goods wrecked shall not be adjudged in him that claims them before Seizure. See Tit. *Wreck*.

### Seisin.

Double. B. 4. 11.

Where and what Seisin of Land is sufficient to have an Affize, and where the Termor's Possession is sufficient for him in Reversion. B. 9. 105, 106. See Tit. *Affize*, and *Entry congeable*.

Where and what is sufficient Seisin of a Common to have Affize, where and what not. B. 6. 57. See Tit. *Affize*.

What shall be sufficient Seisin of a Rent, and by whose Hands to have Affize, or make Avowry. B. 2. 67. b. 4. 9. b. 5. 2 p. 98. b. 6. 57. b. 7. 24, 29. b. 9. 33. See Tit. *Avowry*, *Affize*, and *Rents*.

Where Seisin of a Thing of one Nature is Seisin of a Thing of another to have an Affize, or make Avowry, or not. B. 4. 8, 9, 88. b. 9. 33, 35. b. 10. 127. See Tit. *Avowry*, and *Execution*.

Where Seisin of Parcel is Seisin of all. B. 4. 8, 9. b. 6. 57. b. 9. 34.

Where Seisin of one Person is suf-

ficient for and to another to have Affize, or make Avowry. B. 5. 2 p. 98. b. 9. 105, 106. See Tit. *Avowry*, *Affize*, and *Quare impedit*, and *Entry congeable*.

Where Seisin by the Hands of one is sufficient to make Avowry upon another, and by the Hands of whom. B. 2. 67. b. 5. 2 p. 78. b. 6. 57, 58. See Tit. *Avowry*, and *Bailly*.

How Seisin of more Rent, or *&c.* by Incroachment shall be avoided, and where by Plea, and where by Action. B. 4. 11. b. 5. 2 p. 101. b. 6. 58. b. 8. 67. b. 9. 33, 34. b. 10. 107, 108. See Tit. *Avowry*, *Contra formam feoffamenti*, and *Ne injuste vexes*.

Where in Avowry the Avowant must alledge Seisin by the Hands of a Person, or not. B. 8. 65. b. 9. 36. See Tit. *Avowry*. b. 4. 11. and *Statutes*, 21 H. 8. c. 19.

Where a Man shall make Avowry without alledging any Seisin. B. 8. 65. b. 10. 108. See Tit. *Avowry*, and *Recovery*.

What is sufficient Seisin of a Rent to have an Affize. B. 4. 24, 29. b. 8. 118. See Tit. *Rents*.

Where and in what Actions Seisin alledged in the Court shall be traversed, and Issue joined upon it. B. 4. 11. See Tit. *Stat. 32 H. 8.*

Where and of what Things in Pleading a Man shall say, Seized in his Demean as of Fee, and of which as of Fee and Right. B. 1. 28, 31, 56, 91. b. 2. 10, 20, 27. b. 4. 68.

Form of pleading and alledging Seisin in a Corporation, or *&c.* where in the Right of the College-house, or the Church, *&c.* See Tit. *Corporation*.

Where Seisin of Services alledged in the Writ of Rescous shall be traversed, and Issue taken upon it. See Tit. *Rescous*, and *Issue*.

Where Seisin alledged in Escheat is not traversable. See Tit. *Escheat*.

Where Seisin of Services in *Cessavit* is not traversable, nor shall Issue be taken upon it. See Tit. *Cessavit*.

Where Seisin in Trespals is not traversable, but the Tenure. See Tit. *Traverse*, &c.

Where



Where and what is sufficient Seisin of the Inheritance of the Husband, to make the Wife have Dower. See Tit. *Dower*.

Where and what is sufficient Seisin and Possession of the Lands of the Wife to make the Husband Tenant by the Courtesy. See Tit. *Courtesy*.

Where in Avowry for Heriot the Lord must allèdge Seisin of Heriot. See Tit. *Heriot*.

Where and in what Writs, last Seisin in the Demandant himself, or another to whom he has not made himself Heir, is a good Plea to abate the Writ, where, and in what not. See Tit. *Formedon*.

Where and what Officers shall come to their Offices by Admittance, and how they shall be pur in Seisin and Possession of them. See Tit. *Officers*.

Where and what is sufficient Seisin of Lands, or &c. of the Villein, to vest them in the Lord. See Tit. *Continual Claim*.

Where and what is sufficient Seisin, and dying seized of a Bastard to gain the Land to his Heir against the legitimate Heir, what not. See Tit. *Bastardy*.

Where and in what Writ Seisin shall be allèdged by taking the Eplecs, and how. See Tit. *Eplecs*.

Where and what is sufficient Seisin in the Brother to make the Sister Heir to him before the Brother of the half Blood. See Tit. *Discent*, and *Copybold*.

Where a Man shall be restored to his first Action ancestrel, notwithstanding last Seisin in himself, or not. See Tit. *Restore to the first Action*.

Of the Statute 32 H. 8. of Limitations touching Seisin of Lands and Rents, &c. and the Exposition of it, and what Writs are within this Statute, what not. See Tit. *Limitations*.

Servant and Master.

Where the Master shall be charged, and answer for the AG, Offence, or Wrong done by his Servant, or not. B. 4. 33. b. 5. 2 p. 89. b. 9. 48, 98.

See Tit. *Charge, Hosteler*, and below.

Where Action of the Case lies against the Master for Misdoing, or Negligence of the Servant for burning an House. B. 5. 2 p. 13, 14. See Tit. *Action of the Case*.

Where Action of the Case lies against the Master for Damage done by his Dog set on by his Servant. B. 4. 18. See Tit. *Action of the Case*.

Who shall be sufficient to retain Servants, or Prentices, and how many. B. 6. 19. b. 8. 129. See Tit. *Stat*. 7 El. 4.

Where the Gaoler shall be charged, and answer for the Escape of a Prisoner by Negligence of his Servant. B. 3. 43, 44, 52, 72. b. 5. 2 p. 86, 87. b. 8. 142. b. 9. 68, 98. See Tit. *AuthORITY*, and *Escape*.

Where an Hosteler shall be charged, and answer for the Negligence and Misdoing of his Servants. B. 8. 32. See Tit. *Action of the Case*, and *Hosteler*.

Where upon justifying as Servant, Bailly, or &c. to the King, Aid of the King shall be granted. B. 5. 2 p. 109. See Tit. *Aid of the King*.

Where a Writ of Trespass lies for the Master for the Battery of his Servant, or &c. Form of the Writ, and contrary. B. 9. 113. b. 10. 130. See Tit. *Trespass*.

Where Action of Debt lies and shall be maintained by the Servant against the Master for his Salary, or Wages, and the Count, and Bar in it. B. 8. 147. b. 10. 128. See Tit. *Debt*.

Where Law shall be waged in Debt by the Servant against the Master for his Salary. B. 9. 87, 88. See Tit. *Ley*.

Where continual Claim made by the Servant by Command of his Master, is good and sufficient. B. 9. 106, twice. See Tit. *Continual Claim*.

Where Homage cannot be made, nor received by a Servant, &c. See Tit. *Homage*.

Where Attornment may be made by a Servant, Attorney, Steward, or &c. or to them in Absence of their Master, or not. B. 2. 69. See Tit. *Attornment*.

Where

Where Copyhold may be surrendered by the Servant, or Attorney. B. 9. 75, 76. See Tit. *Copyhold*.

Where Servants may justify their Entry with their Lord, or Master upon Licence of Hunting. B. 9. 49. See Tit. *Forest*.

Where the Founder of an House of Religion, Hospital, or *&c.* shall have a Corody for his Servant, or *&c.* See Tit. *Corody*.

Where and what embezzling the Master's Goods by the Servant is Felony. See Tit. *Crown*.

Where killing the Master or Mistress by the Servant is petty Treason. See Tit. *Crown*.

*Severance.*

Where Severance is in Attaint. B. 6. 25. See Tit. *Attaint*.

Where Severance is in *Audita querela*. B. 6. 25. See Tit. *Audita querela*, and *Nonfuit*.

Where Severance is in Debt by Executors. B. 8. 61. See Tit. *Executors*.

Where Severance is in a Writ of Error. B. 6. 25.

Where Death of him who is summoned and severed abates the Writ after Severance, or not. B. 10. 134, 135. See Tit. *Writ*.

Where the Release of him that is summoned and severed, bars him that sued before, or not. See Tit. *Jointenants*, and *Executors*.

*Sewers.*

Their Authority, and of what Matters and Things they may hold Plea. B. 5. 2 p. 102. b. 6. 20. b. 10. 138, 139 to 143. See Tit. *Commissions*, and *Courts*.

*Sheriff.*

Whence he has his Name of Vicount. B. 9. 49, 97. b. 7. 33.

Antiquity of the Office of a Sheriff. B. 3. Epist. b. 4. 33. b. 9. 124, 125.

Dignity of the Office of a Sheriff.

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The Trust and Confidence which the King and Law repose in this Office. B. 3. 72. b. 4. 33. b. 5. 2 p. 92.

The Manner of Election, and making a Sheriff. B. 3. 72. b. 4. 33. b. 5. 2 p. 92. See Stat. *Art. supra cart. c. 8.*

The Officer of a Sheriff in Fee, or for Life. B. 3. 72. b. 9. 79.

Manner how the Sheriff is discharged of his Office at the Year's End. B. 3. 72. b. 9. 79.

What Courts *&c.* are inseparably incident, or appendant to the Sheriff's Office. B. 4. 33, 34. See Tit. *Appendant*.

The County-Goals belong to the Sheriff, and he shall have the Disposing of them. B. 4. 35. See Tit. *Statutes*, 14 E. 3. c. 10.

Sheriffs in London how chosen and made. B. 3. 71.

The Sheriff's Office cannot be apportioned, nor divided. B. 4. 33. See Tit. *Apportionment*.

The Sheriff shall be charged, and answer for his Servants or Officers under him, and for his Clerks, and their Misdoing. See Tit. *Charge*.

The Sheriff's Authority upon Justices. See Tit. *Justices*.

Authority of Sheriffs upon Execution, and how they shall demean themselves in it. See Tit. *Execution*, *Extent*, and *Recognisance*, and *Statute*, W. 1. c. 17.

Authority of the Sheriff upon Redisseisin. See Tit. *Redisseisin*.

Authority of the Sheriff upon the Writ of *Non Omittas*. See Tit. *Non omittas*.

How the Sheriff shall make Execution upon Recovery of Land, and by what Thing. See Tit. *Execution*.

Where the Sheriff shall be charged upon Escape of Prisoners in Execution, and what is Escape, what not. See Tit. *Authority*, and *Escape*.

Where and what is a good Bar and Justification by the Sheriff in Trespas of Goods taken, an House broke, or false Imprisonments. See Tit. *Falsely Impri-*

*Imprisonment, Justification, Execution, and Request.*

Where the Sheriff doing his Office is a Disseisor. See Tit. *Disseisor*.

Of Returns of Writs by the Sheriff, and which are good, and how he shall demean himself in them. See Tit. *Return of the Sheriff*.

Where the Sheriff shall be amerced, &c. See Tit. *Amercement*.

Where the Sheriff shall fine to the King for Contempt, and what is Contempt in him. See Tit. *Contempt*, and *Attachment upon Contempt*.

Where the Lord of a Franchise shall have Trespass against the Sheriff for entering his Liberty, or not. See Tit. *Franchise*, and *Non omittas*.

Authority of the Sheriff upon Replevy. See Tit. *Statutes*, W. 1. c. 17.

Authority of the Sheriff upon the Writ to inquire of Waste. See Tit. *Waste*, and *Statutes*, W. 2. c. 14. there.

Where and what Obligations made to the Sheriff for Appearance, or &c. are good, what not. See Tit. *Obligation*, and *Statutes*, 23 H. 6. c. 10.

Of Mainprise by the Sheriff, and how he shall demean himself upon it. See Tit. *Mainprise*, and *Statutes*, 23 H. 6.

Of the Sheriff's County-Court, and the whole Matter concerning it. See Tit. *County-Court*.

Of the Hundred-Court of the Sheriff, and the whole Matter concerning it. See Tit. *Hundred*.

Of the Sheriff's Turn, and the whole Matter concerning it. See Tit. *Turn of the Sheriff*.

Where the Sheriff's Return is not good without putting his Hand to it. See Tit. *Return of the Sheriff*.

Where and what Averments are good against the Sheriff's Return. See Tit. *Averment*.

Action upon the Statute for returning Men more remote and suspicious. See Tit. *Action upon the Statute*, and *Statutes*, W. 2. c. 38. there.

*Socage.*

What shall be said Tenure in So-

cage of the King, *in capite*. See Tit. *Tenure*.

Where and what shall be Tenure in Socage of a common Person. See Tit. *Tenure*.

Form of pleading Tenure in Socage. See Tit. *Pleadings*.

Who is said Guardian in Socage, where he shall have Writ of Ward, and what, &c. See Tit. *Ward*.

Where Guardian in Socage may in-dow her self of Land held in Socage, and how. See Tit. *Dower*.

Where the King shall have Prerogative to have Wardship and Primer Seisin of Lands held of other Lords, as well as himself, be they Socage, or not. See Tit. *Prerogative* twice.

What Sum of Money shall be paid for Relief, for Land held by Socage Tenure. See Tit. *Relief*.

*Souldiers.*

The Statutes which concern Souldiers, and the Exposition of them, 5 R. 2. c. 10. 1 H. 6. c. 5. 18 H. 6. c. 18. 7 H. 7. c. 1. 3 H. 8. c. 5. 2 E. 6. c. 2. 4 & 5 P. & M. c. 3. B. 6. 27.

Where Outlawry shall be avoided, because the Party was over Sea, and certified by the Captain of the King's Army in the King's Service. See Tit. *Utlary*, and *Certificates*.

*Summons.*

How Summons shall be made in *Præcipe quod reddat* of Land, and what is good, what not. B. 6. 54. b. 9. 31, 32. See Tit. *Disceit*.

In what Writs Summons shall be made to the Person, and Warning be good and sufficient without Summons in the Land, tho' the Writ concerns Land. B. 6. 54.

Where and in what Writs the Summons ought to be 15 Days before the Return. B. 2. 128. See Tit. *Day*, and *Attachment*.

Where and when Law shall be made of Non-summons in a Plea real. See Tit. *Ley*.

Where

Where Summons, or Non-summons shall be tried by the Country. See Tit. *Lev*, and *Disceit*.

## Statutes.

9 H. 3.

*Magna charta*, c. 1. B. 8. 19.

*Magna charta*, c. 2. of Relief, and the Exposition of it, and the several Sums of Money to be paid for Relief of an Earl, Baron, or *&c.* holding by Knights Service in chief, or Grand Serjeanty. B. 7. 33, 34. b. 9. 124. See Tit. *Knights*, *Baron* and *Baroness*, and *Grand Serjeanty*.

*Magna charta*, c. 3. of Wards, and the Exposition of it. B. 6. 73, 74, 75. b. 8. 173. See Tit. *Ward*.

*Magna charta*, c. 8. of the King's Debt, and Pledges for the Payment of it, and Distress for it. See Tit. *Distress*, and *Prerogative*; and below, the Statute of the *Exchequer*, and *Marlb.* c. 15. and *Art. super chart.* c. 12. *W.* 1. c. 19.

*Magna charta*, c. 9. of Franchises, and the Confirmation of them. B. 122, 127, 128, 129. See below, c. 38. *Marlb.* c. 5. *Art. upon the Chart.* c. 1, and 2. and *Franchises*.

*Magna charta*, c. 10. of Tenure, and Ineroachment of Rents and Services, and the Exposition of it. B. 4. 11. b. 5. 2 p. 100. b. 6. 58. b. 8. 65. b. 9. 33, 34. b. 10. 107, 108. See Tit. *Ne injuste vexes*, and *Seisin*.

*Magna charta*, c. 11. of common Pleas. B. 2. 44. b. 8. 19. b. 11. 68. See Tit. *Bench of the King*, *Common Bench*, *Prerogative*, and *Justices*.

Of Assize to be taken in the own Shires, and the Exposition of it. B. 7. 3. b. 8. 57. See Tit. *Adjournment*, *Writ*, *Mortdancester*, *Assize*. b. 4. 4. See *W.* 2. c. 30, 38.

*Magna charta*, c. 14. of Amercements, Afferement of them, and Exposition of the Statute. B. 5. 2 p. 58. b. 6. 45, 54. b. 8. 39, 40, 61. See Tit. *Amercement*, and *Moderata Misericordia*, b. 11. 44. and *Marlb.* c. 1. 9.

*Magna charta*, c. 20. of Castleward,

and the Exposition of it. B. 4. 88. See Tit. *Castles*, *Escuage*, *Extinguishment*, and *Tenure*.

*Magna charta*, c. 22. of Forfeiture of Year, Day, and Waste for Felony. B. 4. 124. and below, *Prerogative*, c. 16.

*Magna charta*, c. 27. of the King's Prerogative to have Wardship of Lands held in Burgage and Fee-farm. See Tit. *Prerogative*, twice, and below, c. 1. 19. *Livery*, and *Tenure*.

*Magna charta*, c. 29. of Accoutation, and Trial by Peers, *&c.* and the Exposition of it. B. 5. 2 p. 64. b. 6. 52. b. 9. 30, 31. b. 10. 74. See Tit. *Crown*.

*Magna charta*, c. 31. of Tenures of Honours, *&c.* and the Exposition of it. See below *Prerogative*, c. 1.

*Magna charta*, c. 32. See below, 18 E. 1. *Quia emptores terrarum*.

*Magna charta*, c. 34. of Appeals for Women of the Death of their Husbands. B. 4. 42, 45, 47, 48, 76. b. 7. 13. See Tit. *Appeal*.

*Magna charta*, c. 35. of Leets, and the Sheriff's Turn, and the Exposition of it. B. 11. 44, 45. See Tit. *Leets*, and below, *Marlb.* c. 10. and 31 E. 3. c. 14.

*Magna charta*, c. 36. of Mortmain, and the Exposition of it. B. 1. 24, 123. b. 4. 105. b. 11. 71. See Tit. *Mortmain*, and below, *W.* 2. c. 32 and 33, and 7 E. 1. of the *Religions*, and the Books there.

9 H. 3.

Charter of the Forest, and the Exposition of it. B. 2. 80. b. 8. 137, 138. b. 9. 49, 50, 72. See Tit. *Forests*.

20 H. 3.

*Merton.* c. 1. of Dower, and Damages in it, and the Exposition of it. B. 4. 30. See Tit. *Damages*.

*Merton.* c. 3. of Redisseisin, and the Authority of the Sheriff and Coroners, and the Exposition of it. B. 4. 4, 41, 45, 46, 47. b. 5. 2 p. 88, 121. b. 6. 9, 12. b. 8. 152. b. 9. 72. See Tit. *Redisseisin*, and *Coroners*. See below, *Marlb.* 8. and *W.* 2. c. 26.

*Mert.*

*Mert.* c. 4. of Common, and Improvement of it, and the Exposition of the Statute. b. 4. 37. b. 6. 57. b. 8. 48. b. 9. 122. See Tit. *Affize*, and below, *W.* 2. 25 and 46. b. 2. 25.

*Mert.* c. 6. of Wards, and their Marriage, and Intrusion, Marriage unfastified. B. 1. 88. b. 4. 76, 82. b. 5. 2 p. 58 and 127. b. 6. 70, 75. b. 9. 72, 73. b. 10. 119. See Tit. *Action upon Statute, Tender, Refusal, and Retainer.*

*Mert.* c. 8. of Limitation, and Exposition of it, and of other Statutes touching Limitations. See below, *W.* 1. c. 38. *W.* 2. c. 36. and 32 *H.* 8. c. 2. and the Books there.

*Mert.* c. 9. of Bastardy, and Trial of it upon Pleading, and the Exposition of it. B. 4. 29. b. 5. 9, 11, 12. b. 6. 65. b. 7. 43. b. 8. 101. See Tit. *Bastardy.*

*Mert.* c. 10. of Attorneys to be made in Suits, &c. and the Exposition of it. B. 8. 58, 82. See Tit. *Attorney*, and below, *W.* 2. c. 20.

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21 *H.* 3.

Of the Statute of the Bifextile, the Exposition and Comparation of it. B. 8. 19. See Tit. *Computation.*

51 *H.* 3.

Statute of the Exchequer, and the Exposition of it. See above, *Mag. chart.* c. 8, and 18. *Art. upon the Chart.* c. 12. *W.* 1. 19. and the Books there.

55 *H.* 3.

*Marlbridge*, c. 1. of Distress to open in the King's Highway. See below, c. 15.

*Marlb.* c. 2. of Distress for Suit to the Court, and Exposition of the Statute. See above, *Magna charta*, c. 14. and below, c. 9. *Amercement, Hundred, and Leet.*

*Marlb.* c. 1, and 3. of Distress for Rent, or Services not due, and the

Exposition of it. B. 4. 11, 76. b. 9. 76. See Tit. *Writ*, and *Trespaff.*

*Marlb.* c. 4. of Distress taken in one County, and driven into another, and of Distress excessive, and unreasonable. B. 4. 8. b. 11. 44. See Tit. *Action upon the Statute*, and *Distress*, and below, *W.* 1. c. 16.

*Marlb.* c. 6. of Collusion upon Feoffments, or &c. to out the Lord of his Wardship, and the Exposition of it. B. 1. 122. b. 2. 94. b. 3. 66, 81. b. 4. 4, 83. b. 6. 76. b. 7. 40. b. 8. 164. b. 9. 73. b. 11. 77. See Tit. *Collusion*, and 32 *H.* 8. c. 1.

*Marlb.* c. 7. of Process in the Writ of Ward, and the Exposition of it. See below, *W.* 2. c. 35.

*Marlb.* c. 8. of Rediffisin. See above, *Mert.* c. 3. and the Books there.

*Marlb.* c. 9. of Suits, and Contribution therefore betwixt Parcenors, or &c. and the Exposition of the Statute. B. 4. 121. b. 6. 1, 2. b. 8. 105, 106. b. 9. 34. See Tit. *Contra formam feoffamenti*, *Apportionment*, *Partition*; above, *Mag. Char.* c. 14. here, c. 2.

*Marlb.* c. 10. of Leets, County-Courts, and the Sheriff's Turn. See above, *Magna charta*, c. 35. and the Books there.

*Marlb.* c. 12. of Days in *Q. Impedit.* B. 5. 2 p. 49. See Tit. *Assent.*

*Marlb.* c. 14. of Exemption of Jurors, and the Exposition of the Statute. B. 6. 53. b. 8. 18, 108. See Tit. *Exemption.*

*Marlb.* c. 15. of Distress taken in the High-way, and out of the Fee, and Exposition of it. B. 8. 60. See Tit. *Action upon the Statute* above, c. 1. and below, *W.* 1. c. 16. and *Art. cleri.* c. 9.

*Marlb.* c. 23. of Process in Account. B. 3. 12. See Tit. *Account*, and below *W.* 2. c. 11. and *Outlawry.*

*Marlb.* c. 24. of Justices in Eyre, and their Authority. B. 2. 89. b. 5. 5. b. 8. 37, 39. b. 10. 71. See Tit. *Justices*, and below *W.* 1. c. 18.

*Marlb.* c. 25. of Murder, and what is Murder. B. 1. 99. b. 4. 40, 42, 44. b. 9. 66, 68, 81, 112. See Tit. *Crown*, and below. 3 *H.* 7. 1,

*Marlb.*

*Marlb. c. 27.* of Amercement of Mainpernors. B. 8. 39. See Tit. *Amercement.*

*Marlb. c. 29.* of a Writ of Entry, and the Exposition of it. B. 6. 9. See Tit. *Writ of Entry.*

3 *E. West. 1.*

*West. 1. c. 2.* of Clergy, the Prisoner to be delivered to the Ordinary to make Purgation. B. 5. 26, 27. b. 11. 29, 37, 58. See Tit. *Clergy*, and below, 18 *El. 7.*

W. 1. c. 3. of Escape, and how it shall be tried and discussed. B. 11. 64, 65. See Tit. *Escape.*

W. 1. c. 4. of Wreck, and what Goods shall be said wrecked, and how they shall be claimed, &c. B. 5. 2 p. 106, 107, 109. See Tit. *Wreck.*

W. 1. c. 5. of Election of Abbots, Priors, &c. and Exposition of it. B. 3. 74. b. 4. 77, 78. b. 10. 31, 34. See Tit. *Election*, and below *Art. cler. c. 14.*

W. 1. c. 6. of Amercements, Afforcements of them to be reasonable. See above, *Mag. char. c. 14.* the Books there, and Tit. *Moderat. misericord.*

W. 1. c. 7, and 31. of Purveyors, and how they are to demean themselves in their Office. B. 8. 146. b. 10. 73. See Tit. *Officers.*

W. 1. c. 10. of Coroners, how to be chosen, what Persons they must be, the Credit the Law gives them, and how, and when they shall be discharged. B. 4. 41, 45. b. 5. 2 p. 57. b. 8. 39, 41. b. 9. 31. See Tit. *Coroners.*

W. 1. c. 11. of Odio and Atia, and the Exposition of it. B. 9. 56.

W. 1. c. 14, for the Time to begin and prosecute Appeals. B. 4. 42. b. 9. 2 p. 107. b. 7. 30. See Tit. *Appeal*, and below, 3 *H. 7. c. 1.*

W. 1. c. 14. of the Principal and Accessary, and when the Accessary shall be arraigned, and the Exposition of the Statute. B. 4. 43, 44, 47. b. 9. 68, 117, 118, 119. See Tit. *Crown.*

W. 1. c. 16. of Distress. See *Marlb. c. 4*, and 15. and the Books above, and *Art. Cler. c. 9.* below.

W. 1. c. 17. of Replevy, and Power

of the Sheriff for Delivery of Distress taken and inclosed in a Castle, or &c. B. 5. 2 p. 92, 93. See Tit. *Sheriff.*

W. 1. c. 18. of Justices in Eyre. See above, *Marlb. c. 24.* the Books there, and *Mag. char. c. 14.* 66. there.

W. 1. c. 19. of the King's Debts, and Manner of levying them. See Tit. *Mag. char. c. 8*, and 18. and 51 *H. 3.* Statute of the *Exchequer* above, and *Art. upon the Chart. c. 13.* and the Books there.

W. 1. c. 20. of Misdoers in Parks. B. 8. 138. b. 9. 72, 74. See Tit. *Forest*, and *Notice*, 21 *E. 1.* of &c. below.

W. 1. c. 22. of Wards, and Intrusion by the Heir, the Marriage not satisfied. See above, *Mert. c. 6.* and the Books there, and B. 6. 22, 71, 74. b. 7. 43. b. 9. 72, 73, 132. b. 5. 2 p. 102. and Tit. *Ward*, *Action upon Statute*, *Judgment*, and *Retainer.*

W. 1. c. 26. of Extortion in the Sheriff, or &c. B. 4. 76. b. 10. 101. See Tit. *Extortion*, and *Notice.*

W. 1. c. 27. of Extortion. See c. 26. and the Books above there.

W. 1. c. 35. of Aid to make his Son Knight, or marry his Daughter. B. 11. 44. See Tit. *Aid to knight his Son*, &c.

W. 1. c. 32. of Barrétors. B. 8. 36, 37. See Tit. *Barretor.*

W. 1. c. 36. of Disseisin with Force. B. 11. 43. See Tit. *Imprisonment.*

W. 1. c. 38. of Limitations, &c. B. 4. 10, 11. b. 7. 40. b. 8. 65, 126. b. 9. 36. b. 11. 68. See Tit. *Limitation*, and *W. 2. c. 46.*

W. 1. c. 39. of Voucher out of the Degrees in a Writ of Entry, and the Counterplea to it. B. 1. 15. See Tit. *Counterplea of Voucher.*

W. 1. c. 40. of Battle in a Writ of Right. B. 8. 46. b. 9. 31. See Tit. *Battle.*

W. 1. c. 41. of Essoins in Novel Disseisin, Attaints, &c. B. 4. 35. b. 8. 50.

W. 1. c. 46. of Age in the Writ of Entry. B. 6. 4. See Tit. *Age*, *Fresh Suit*, and *Stat. Gloucester*, c. 2. below.

W. 1. c. 47. Of the next Friend and Guardian to appear, and sue for the Infant, &c. B. 4. 53, 54, 124. b. 7. 1.

*Calvin's Case*; 2. b. 8. 58. b. 9. 30. See Tit. *Attorney*, and *W.* 2. c. 15. below.

4 E. 1.

Office of Coroner, and the Exposition of it. B. 5. 2 p. 108. See above, *W.* 1. c. 4. b. 2. 93. b. 4. 41, 45. See Tit. *Coroners*.

Of Bigamy, c. 3. of the King's Aid to his Committee, or *&c.* B. 9. 16. See Tit. *Aid of the King*.

Of Bigamy. c. 5. of Clergy. B. 5. 13. See Tit. *Clergy*.

Of Bigamy, c. 6. of Warranty by *Deū* and *Conceſſi* in Deeds, and the Exposition of it. B. 1. 2. b. 4. 81. See Tit. *Counterplea of Warranty*, and *Expoſition*.

6 E. 1. of Gloucester.

*Glouceſter*, c. 1. of Damages and Coſts in Actions, and the Exposition of the Statute. B. 7. 29. b. 8. 50. b. 10. 116. b. 11. 51. See Tit. *Aid, Mortdancer, and Damages*.

*Glouceſt.* c. 2. of Age upon the Deed of the Anceſtor, and pleaded in Bar, and the Exposition of the Statute. B. 6. 1, 2, 3, 4. b. 9. 85.

*Glouceſt.* c. 3. of Warranty collateral, and the Exposition of the Statute. B. 1. 76, 140. b. 5. 59, 63. b. 4. 4. b. 5. 2 p. 47, 80. b. 8. 51, 52, 53, 54, 134. b. 9. 11, 26, 106. b. 10. 96, 97. See Tit. *Warranty*, and *Scire facias*; and below, *W.* 2. c. 1.

*Glouceſt.* c. 4. of *Ceſſavit*, and Exposition of it. B. 2. 93. b. 5. 2 p. 8. b. 4. 11. b. 6. 3, 4. b. 8. 44, 86, 118. b. 9. 85. See Tit. *Ceſſavit*, and *Arrearages*, and *W.* 2. c. 21. below.

*Glouceſt.* c. 5. of Waſte againſt the Tenant for Life, Years, or *&c.* and the Exposition of it. B. 1. 46. b. 2. 35, 52, 68, 92. b. 3. 23, 28, 84. b. 4. 63, 68, 69, 70. b. 5. 2 p. 12, 17, 43, 77, 115, 119. b. 6. 37, 41, 44, 68. b. 8. 87, 152. b. 9. 139, 142. b. 10. 116, 139, 140. b. 11. 40, 44, 45, 48, 49, 50, 80, 81, 82, 84. See Tit. *Waſte*.

*Glouceſt.* c. 7. of the Writ of Entry in *caſu proviſo*, and the Exposition of it. See *W.* 2. c. 24. and the Books there.

*Glouceſt.* c. 8. of the County-Court, and of what Matters and Actions it ſhall have Plea. B. 8. 66. See Tit. *County-Court*.

*Glouceſt.* c. 8. touching Warrant of Effoin, and what is ſufficient, what not. B. 2. 17. See Tit. *Effoin*.

*Glouceſt.* c. 9. of *Odio* and *Atia*, and Pardon. See *W.* 1. c. 11. above; and for Pardon, b. 5. 2 p. 91. See Tit. *Crown*, and *Expoſition*, in his own Defence.

*Glouceſt.* c. 11. of Receipt by the Leſſor for Years, or *&c.* B. 6. 57. See Tit. *Receipt*.

*Glouceſt.* c. 3. of *Eſtrepement*, and Exposition of the Statute. B. 5. 2 p. 115. See Tit. *Eſtrepement*.

7 E. 1.

Of religious Men and Mortmain, and Exposition of the Statute. See *Mag. char.* c. 36. and the Books there, B. 1. 123. b. 3. 31. b. 7. 26, 39 and *W.* 2. 32. below, and the Books there, and 15 R. 2. c. 5.

11 E. 1.

Action Burel of Recogniſance, and *&c.* and the Exposition of it. B. 2. 59. b. 3. 12, 13, 14, 67. b. 4. 31, 64, 65, 66, 67, 74, 83. b. 5. 2 p. 85, 86, 90. b. 7. 19, 20, 22, 48, 49. b. 8. 153, 171. See Tit. *Recogniſance*, *Extent*, *Execution*, and below, 13 E. 1. of *Merchants*, and 23 H. 8. c. 6.

13 E. 1. Weſt. 2.

W. 2. c. 1. of Tail, and the Exposition of it.

1. What Things may be given in Tail by the Words (and Equity of the Statute) what not. B. 1. 88, 96, 97. b. 3. 8, 9. b. 4. 22, 23. b. 7. 13, 14, 33, 34, 35. b. 9. 105.

2. What Gifts, and by what Words ſhall be Eſtates tailed within the Statute, what not. B. 1. 46, 66, 84, 103, 120, 140. b. 3. 37. b. 6. 16, 17. b. 7. 41, 42. b. 8. 21, 22, 27. b. 9. 128. b. 10. 50.

3. Where Estates in Tail created by Condition and Provision upon Contingency, to have Continuance and Perpetuity, be good by this Statute, or not. B. 1. 84, 88, 130, 131, 138. b. 6. 40 to 43. b. 10. 37 to 43, and 52. See Tit. *Conditions, and Perpetuities*.

4. Of Power of the Donee in Tail to alien the Land after Issue, before this Statute, and what Estate he had, and what Heir shall inherit this Land. B. 1. 103. b. 3. 8, 85. b. 4. 4. b. 6. 41. b. 8. 35, 72. b. 9. 132. b. 11. 72. See Tit. *Formedon in Tail*.

5. Where the second Husband shall not be Tenant by Courtesy, nor the second Wife indowed after this Statute. B. 8. 35.

6. Formedon in Descender given by this Statute instead of Mortdancester. B. 4. 4. and *supra*, Sect. 4.

7. Upon the Words of the Statute Not extended to Gifts before made. B. 9. 26.

8. Of the Words (the Fine in Law shall be void.) B. 3. 88, 89. b. 7. 32. b. 9. 140. b. 10. 38. See Tit. *Exposition, and Nullity*.

9. Upon the Words (nor shall such Heirs need to claim.) See Tit. *Claim*.

10. Of the Words of the Statute (so that they to whom such Land was given, shall have no Power to alien) and yet they may alien, and it shall be Discontinuance, and put the Issue to a Formedon. B. 3. 85. See Tit. *Discontinuance of Lands*.

11. And the Estate-Tail shall be barred for ever by common Recovery with Voucher, notwithstanding the Word aforesaid. B. 1. 62, 63, 94, 96, 106, 131. b. 2. 15, 16. b. 3. 5. b. 6. 32, 40, 41. b. 10. 37. See Tit. *Falsifying of Recovery*, and below, 34 H. 8. c. 20.

12. And by Warranty, with, or without Affects. See Stat. *Glouc.* c. 3. above, and the Books there, and Tit. *Affects, Warranty, Scire facias, and Formedon*.

13. Where and in what Cases Formedon in Descender was at the Common Law, &c. See Tit. *Formedon*.

14. Where this Statute binds the

King, as well as a common Person. See below, near the End.

W. 2. c. 3. of *Cui in vita*, and the Exposition of it. 1. Of the *Cui in vita*. B. 6. 8. b. 8. 72. See Tit. *Cui in vita*.

2. Of Resceit, and Exposition of the Statute touching it. B. 1. 84. b. 3. 4, 9, 61. b. 10. 44, 45. b. 11. 39, 80. See Tit. *Resceit*. B. 6. 8. *Falsifying of Recovery*.

W. 2. c. 4. of Dower, and *Quod ei deforceat*, and the Exposition of the Statute. 1. Dower. B. 6. 57. b. 9. 16. See Tit. *Dower*.

2. Of *Quod ei deforceat*. B. 3. 9. b. 5. 2 p. 85. b. 6. 8, 40. b. 11. 62. See Tit. *Quod ei deforceat*.

W. 2. c. 5. of *Q. Impedit*, and Dairein Presentment, and the Exposition of it. 1. Of the Words (whose Presentee is admitted) and in what Cases Admission is a sufficient Title, and gains the Advowson of a Church, or not. B. 4. 79. b. 6. 29, 30, 49. b. 7. 28. b. 9. 132. See Tit. *Q. Impedit*, twice; *Induction, and Plenarty*.

2. Where Usurpation, and Presentation to a Church during Minority and Wardship, or upon Tenant in Courtesy for Life, or Years, or upon Tenant in Tail, gains not the Advowson against them in Reversion, or &c. B. 6. 29, 30, 49, 50. b. 7. 28, b. 11. 33. See Tit. *Q. Impedit*.

Upon the Words (he shall have such Action as his last Ancestor should have had) to be intended of an Advowson which descends, and not of an Advowson which he purchased. B. 3. 3. b. 6. 50. b. 11. 33. and *Enfant*.

4. Upon the Words (nor shall this Statute be so largely understood, &c. but the Judgment given in the King's Court shall stand in Force until, &c.) B. 6. 50. See above, Sect. 3.

5. Upon the Words (The Plea shall not fail for Plenarty, so that the Writ be purchased within Six Months. B. 6. 29, 49, 50. See Tit. *Writ to the Bishop*, and *Q. Impedit*, of the Collation of a Bishop.

6. Upon the Words (it is provided that from henceforth it be in the Election of the Party disturbed, &c.)



B. 5. 2 p. 57, 97, 98. b. 6. 57. See Tit. *Q. Impedit*, and *Seisin*.

7. Of Damages in *Q. Impedit*, where the last Presentation is to be recovered. B. 5. 2 p. 58, 59. b. 6. 48, 49, 51. See Tit. *Q. Impedit*.

8. Of the Words (Half Year's Time) the Exposition and Computation of it. See Tit. *Exposition*, and *Computation*.

9. Of the Words (and from henceforth Writs shall be granted for Chapels, &c. See Tit. *Q. Impedit*.

10. Upon the Words concerning the *Indicavit*, and Writ of Right of Advowson of Tithes, or of the third Part of an Advowson; or &c. See Tit. *Indicavit*; and below, 9 E. 2. *Artic. cler.* See Tit. *Advowson*.

West. 2. c. 9. of the Writ of Measne, &c. B. 4. 93. b. 6. 58. b. 8. 54, 86, 134. b. 9. 21, 22, 110, 111. See Tit. *Measne*. W. 2. c. 45.

W. 2. c. 10. of making Attorneys in Suits, and what was the Law before. B. 8. 58.

W. 2. c. 11. of Account, and Auditors, and their Authority. B. 3. 12, 44. b. 8. 82, 119. b. 11. 38, 40, 89. See *Marlb.* c. 23. above, and Tit. *Account*, and *Exposition*.

W. 2. c. 12. of Appeal, and Abettors, and Damages to be recovered against them, and the Exposition of the Statute. B. 4. 45, 47. b. 5. 2 p. 112. b. 8. 66. b. 11. 33, 77. See Tit. *Abettors*, and *Appeals*.

W. 2. c. 14. of Waste, and the Exposition of it. 1. Of Prohibition at the Common Law, and Waste against Tenant in Dower, and by Courtesy, &c. B. 3. 23. b. 8. 87. b. 9. 142. b. 10. 116. b. 11. 49, 50, 81, 85. See Tit. *Waste*, and *Action upon the Statute*.

2. Form of the Writ of Waste, and against whom the Statute ought to be recited, against whom not. B. 4. 68. b. 5. 2 p. 12, 15, 75, 77. b. 6. 44. See Tit. *Stat. Glouc.* c. 5. above, and *Action upon the Statute*.

3. Upon the Words (shall go to the Place wasted) and the Exposition of them. B. 4. 65. b. 8. 152. See Tit. *Waste*, *Glouc.* c. 5.

W. 2. c. 16. Of Tenure by Priori-

ty and Posteriority, and who shall have the Wardship of the Heir. B. 5. 2 p. 56. See Tit. *Ward*, and *Prerogative*. c. 2. below, and *Prerogative*, 28 E. 1. below.

W. 2. c. 18. of *Elegit*, and Execution, and how the Sheriff shall demean himself upon it. B. 3. 9, 12, 14. b. 4. 65, 67, 74, 82. b. 5. 2 p. 90. b. 6. 78. b. 7. 30. b. 8. 171. See Tit. *Elegit*, *Execution*, and *Extent*.

2. Upon the Words (He shall recover by a Writ of Novel Disseisin.) B. 5. 2 p. 105. See Tit. *Affize*, and *Stat. Merchants*, 13 E. 1. below.

W. 2. c. 19. of the Ordinary, and the Exposition of it. B. 5. 2 p. 82, 83. b. 8. 135. b. 9. 39. See Tit. *Ordinary*.

W. 2. c. 21. of *Cessavit*, and the Exposition of it. See *Stat. Glouc.* c. 4. and the Books there.

W. 2. c. 22. of Waste by one Jointenant, or Tenant in common against another, and the Exposition of it. B. 11. 49, 82. See Tit. *Waste*.

W. 2. c. 23. of Account by an Executor. B. 11. 89, 90, 91. See *Account*.

W. 2. c. 24. of Nuisance, and the Exposition of it. B. 5. 2 p. 101. b. 8. 48, 49. See Tit. *Nuisance*.

There, of *Quod permittat*, and against whom it lies. B. 5. 2 p. 101. b. 8. 48, 49. See Tit. *Nuisance*.

W. 2. c. 24. Of the Writ of Entry in *Consimili casu*, and Exposition of it. B. 6. 8. b. 8. 48, 49. See Tit. *Entry*, and *Writ of Entry*, and *consimili casu*. B. 11. 80.

W. 2. c. 25. of Affize, and the Exposition of it. 1. That it was a speedy Remedy, and at the Common. B. 4. 35. b. 8. 50, 66. See *Stat. Glouc.* c. 1. above.

2. Affize of Estovers, or of Parcel of them. B. 5. 2 p. 25. b. 8. 47, 48. b. 9. 112. See Tit. *Affize*, *Common*, and *Estovers*.

3. Of Affize of Wood, and of Profits to be taken in Woods. B. 4. 87. b. 11. 49. See above, Sect. 2. and Tit. *Affize*, *Wood*, and *Demand*.

4. Of Affize of a Corody, or of Parcel of it. B. 8. 46. See Tit. *Affize*, *Corody*, and *Demand*.

5. Of Toll. B. 8. 46. See Tit. *Toll*.

6. Of Offices and Profits belonging to them, and of what, and what Estate. B. 8. 45, 46, 47, 49, 55. See Tit. *Affize, Demand, and Plaint*.

7. Upon the Words, The Writ shall be *De libero tenemento*, B. 8. 47, 48, 49. b. 5. 2 p. 61. See Tit. *Writ*, where it shall be general, and the Count special.

8. Of Common, of Pasture, Turbary, and Fishing. B. 2. 23. b. 4. 37. b. 7. 4. b. 6. 57. b. 8. 48, 50. See Tit. *Affize, and Common*.

9. Upon the Words, They shall be had for Disseisors, as well the Feoffor, as the Feoffee. B. 3. 77, 78. b. 5. 2 p. 79, 80. See Tit. *Disseisin*.

80. Upon the Words, Where one feedeth in the Several of another. B. 8. 50. See Tit. *Affize*.

11. Upon the Words (let them that are named Disseisors beware) what Pleas the Disseisor shall have, what not. B. 7. 26. See Tit. *Disseisin, and Encumbent*.

12. Of Certificate of Affize upon a Bailly's Plea, or &c. and where it lies. B. 4. 4. b. 6. 8. b. 8. 65, 66. See Tit. *Certificate of Affize*.

13. Of Damages to be recovered in Affize of Novel Disseisin. See Tit. *Damages*.

14. Of Imprisonment for Disseisin in Fact with, or without Force, or upon Pleading, or Failing of the Record. See Tit. *Imprisonment, and Fine to the King, and Affize* above, Sect. 12.

W. 2. c. 26. Of Redisseisin, and the Exposition of it. See Stat. *Merton*. c. 3. above, and the Books there, and *Marib*. c. 8.

W. 2. c. 28. Of Effoin in Affize. and the Exposition of it. B. 4. 35, b. 8. 50. See Tit. *Effoin*, and *W*. 2. c. 26. Sect. 1. above.

W. 2. c. 29. Of Oyer and Terminer, and to whom Commission shall be directed, to whom not; and their Authority in Cases. B. 4. 46, 47. b. 6. 20. b. 7. 12. b. 9. 56, 118. See Tit. *Justices, and Odio and Atria*.

W. 2. c. 30. Of *Nisi prius*, and Justices of Affize, and their Authority;

and the Exposition of the Statute. B. 10. 54, 103. b. 11. 62. See Tit. *Justice*, 27 E. 1. of *Fines*, and 12 E. 2.

1. Of Affizes mentioned in the Statute to be taken in the proper Counties. See above, *Magna charta*, c. 12.

2. Of Adjournment. B. 4. 4. b. 8. 57. See Tit. *Adjournment*.

3. Upon the Words (that the Justices shall not compel the Jurors, to say precisely whether it be Disseisin, or not, &c. B. 1. 18, 22, 64, 126, 174. b. 2. 4, 5, 8, 9, 28, 56. b. 3. 37, 45. b. 4. 7, 8, 24. b. 5. 2 p. 11, 30, 78, 84, 89. b. 6. 46, 67, 77. b. 8. 94. b. 9. 12, 13, 14, 83, 84, 99. b. 10. 122, 123. b. 11. 9. See Tit. *Verdict*).

4. Upon the Words (the Justices of the Benches) shall have in their Circuits Clerks to inroll all Pleas, &c. B. 9. 12, 13.

5. Upon the Words (Henceforth the Justices shall not put in Affizes, or Juries, any other Jurors than those who were summoned at the first.) B. 9. 13.

W. 2. c. 31. Of a Bill of Exception, and Error upon it. See Tit. *Error*. B. 9. 13.

W. 2. c. 32. Of Mortmain by Recovery by Defendant and Inquiry of Collusion, and the Exposition of it. B. 9. 13. See Tit. *Collusion, and Mortmain*.

W. 2. c. 34. Of Ravishment of Ward, and Marriage of him, and Exposition of the Statute. B. 6. 22, 43. b. 2. 95. b. 5. 2 p. 102. b. 9. 72, 73, 132. See Tit. *Ward, Election, Judgment, and Process*.

W. 2. c. 38. Of Jurors, and the Exposition of it. B. 8. 118. See Tit. *Action upon Statute, Furors, and Panel*, and below, *Artic. upon Chart*. c. 9.

W. 2. c. 40. Of Age in *cul in vita*. B. 1. 15. b. 4. 50. See Tit. *Age*.

W. 2. c. 41. Of *Contra formam collationis*, and Exposition of the Statute. B. 2. 41. b. 4. 76, 108. b. 6. 68. b. 11. 11.

W. 2. c. 45. Of Execution by *Scire facias* after the Year, and the Exposition of the Statute. B. 2. 37. b. 3. 12, 14. b. 4. 65, 66. b. 5. 2 p. 38, 88.

b. 8. 153. See Tit. *Execution, Recognisance, Scire facias, and Voucher.*

W. 2. c. 46. Of Approvement of Common, and Exposition of it. See Stat. *Mert. c. 4. above, and the Books there, and Tit. Approvement.*

There, of Affize of Common of Pasture, and Limitation upon Ufurpation upon Tenant in Dower for Life, Years, &c. See above, W. 1. c. 38. and the Books there; and for the other Part, W. 2. c. 5. above, See & 2.

13 E. 1. Of Merchants.

13 of E. 1. of Merchants, and Exposition of it. B. 3. 12, 14. b. 4. 67, 82. b. 7. 38, 39. See Tit. *Recognisance.* b. 11. 64. and 23 H. 8. c. 6. below.

13 E. 1. Of Circumspett.

13 E. 1. of *Circumspette agatis*, Exposition of it. B. 4. 20. b. 5. 2 p. 67. b. 7. 44. See Tit. *Consultation, and Prohibition.* b. 5. 14. See below. *Art. Cler. c. 1.*

13 E. 1. Of Winchester.

13 of E. 1. of *Winchester*, of Robbery, and Huy and Cry. B. 7. 6, 7. See Tit. *Huy and Cry.*

18 E. 1. *Quia Emptores.*

18 E. 1. of *Quia emptores terrarum*, and the Exposition of it. B. 3. 22. b. 4. 120. b. 5. 2 p. 5, 6, 55. b. 6. 1, 2. b. 7. 23. b. 8. 79, 105. b. 10. 128. See Tit. *Apportionment.*

18 E. 1. Of Fines.

18 E. 1. Of the Manner of levying Fines, and Claim to be made upon them, and Exposition of it.

1. Who may take Cognisance of Fines, and before whom they shall be levied. B. 8. 118. See Tit. *Fines of Lands, and Cognisance of Pleas.*

2. Upon the Words (No Fine to be levied without an Original.) B. 3.

b. 5. 2 p. 38, 39. See Tit. *Error, and Falsifying of Recovery.*

3. Upon what Original Writ a Fine is to be levied. B. 5. 2 p. 38, 39. See Tit. *Fines of Lands.*

4. Upon the Words, If a Woman covert be one of the Parties, she must be first examined. B. 10. 43. See Tit. *Examination.*

5. Touching Claim to be made, and where Negligence of Claim prejudices, and whom not. See Tit. *Continual Claim,* and 4 H. 7. c. 24. below.

25 E. 1. Stat. of Carlisle.

25 E. 1. Of *Carlisle*, touching Benefices in *England* given and provided by the Pope, and the Exposition of it. B. 5. 13. b. 11. 73.

21 E. 1. Of Malefactors, &c.

21 E. 1. Of Offenders in Parks, and the Exposition of it. B. 9. 72. See Tit. *Forests,* and above, W. 1. c. 20.

27 E. 1. Of Fines.

27 E. 1. Of Fines, and Averments against them, and Proclamations, &c. and the Exposition of it. 1. Upon the Words (where after waging of Battle, and the great Affize in their Cases ever they hold the last and final Place.) B. 1. 96, 97. b. 8. 100. See Tit. *Computation.*

2. Of Averments against Fines levied, That before the Fine levied, and at the Time of levying thereof, and since the Demandants, or Plaintiffs, or their Ancestors were always seized of the Lands in the Fine contained, or of some Part of them, &c. The said Exceptions, &c. henceforth by no Means shall be admitted against such Fines and Recognisances. B. 3. 88, 89. See Tit. *Averments, and Fines.*

3. Of the Words concerning Proclamations to be made upon them, and the Manner thereof, below. 4 H. 7. c. 24. and the Books there. See Tit. *Error.*

27 E. 1. *Articles upon the Charters.*

Artic. upon Chart. of the King's Confirmation of the Franchises, and the Exposition of it. B. 1. 51. b. 8. 122 to 129. b. 9. 68. b. 11. 69. See Tit. *Confirmation*, and *Franchise*.

There, c. 2. of Purveyors, and their Authority, and the Exposition of it. B. 8. 146. b. 10. 73. See Tit. *Officers*.

There, c. 3. Of the Court of the Marshalsea, and the Exposition of it. B. 4. 46, 47. b. 6. 20, 21. b. 7. 15. b. 10. 73, 75. See Tit. *Authority*, *Action upon Statute*, and *Marshalsea*.

There, c. 4. of Common Pleas in the Exchequer, they shall not be held there. B. 5. 2 p. 62. See *Mag. Char.* c. 11. above, and *Exchequer*.

There, c. 6. of the Seals. To what Purposes the petty Seal, privy Seal, or Signet Royal are sufficient, or not. B. 2. 17. b. 6. 53. b. 8. 18. b. 10. 112, 115. b. 11. 89 to 92. See Tit. *Seal*.

There, c. 9. of Jurors, and the Exposition of it. See B. 5. 2 p. 36. b. 8. 118. See W. 2. c. 38. above, and Tit. *Damages*.

There, c. 10. of Conspiracy. See below, 33 E. 1. of *Conspiracy*, and the Books there.

There, c. 12. of the King's Debt, and Distress for it, and Exposition of the Statute. B. 5. 2 p. 4. 56, 92. b. 7. 19, 20. b. 11. 44. See Tit. *Distress*, and *Prerogative*, above, *Magna charta*, c. 8. 51 H. 3. Stat. of the *Exchequer*, and W. 1. c. 19.

There, c. 15. of Attachment and Summons in Assize, and other Writs, and Exposition of the Statute. B. 9. 31. See Tit. *Attachment*.

There, c. 19. of removing the King's Hand with Restitution of Issues, &c. and Exposition of it. B. 2. 53. b. 4. 55, 57. b. 9. 9 to 103. See Tit. *Livery*, and *Ouster la main*.

28 E. 1. *Of Wards, and Relief.*

28 E. 1. of Relief, and Wards, and Exposition of the Statute.

1. Of Relief, and who shall pay it, who not. See *Magna charta*, c. 2. above, and *Relief*.

2. Of Relief and Wardship of the Heir in Socage. B. 9. 73. and W. 2. c. 35. above, and Tit. *Socage*.

3. Of the three Sorts of Writs there mentioned. B. 5. 2 p. 18. b. 8. 86. b. 9. 72. b. 10. 130. b. 11. 45, 46. See Tit. *Ward*.

4. Of Wardship by Priority. See W. 2. c. 16. above, and *Ward*.

28 E. 1. of Appeals and Approvements. B. 9. 119. See above, W. 1. c. 14. and Tit. *Appeals*, below, *Art. Cler.* c. 10, and 15.

29 E. 1. *Of Escheators.*

29 E. 1. of Reseizing, and *Scire facias*, &c. and the Exposition of the Statute. B. 8. 169. See Tit. *Reseizure*, and *Entry congeable*.

33 E. 1. *Of Conspiracy.*

33 E. 1. of Writ of Conspiracy, and where it lies, or not. B. 9. 26, 56. See Tit. *Conspiracy*; and above, *Art. upon the Charter*, c. 10.

33 E. 1. *Of measuring Lands.*

33 E. 1. Of measuring Lands, and the Exposition of it. B. 6. 67. twice.

33 E. 1. *Ordinatio Foresta.*

43 E. 1. Ordinance of the Forest, and the Exposition of it. See above, *Charter of the Forest*, and the Books there.

34 E. 1. *Of Mortmain.*

34 E. 1. Licence to alien in Mortmain, and the Exposition of it. See below, 18 E. 3. *Pro Cler.* c. 3. and *Ad quod damnum*, and *Licence*.

1 E. 2. *Of Knights.*

1 E. 2. Of making Knights, and who shall be compelled to accept the De-

gree and Dignity of a Knight. B. 6. 19. b. 7. 27, 33. See Tit. *Knights, Writ,* and *Fine to the King.*

9 E. 2. *Art. Cleri.*

Articl. of the Clergy. c. 1. 1. of Tithes, Obventions, and Oblations. b. 2. 44, 45, 47, 48. b. 4. 75. b. 5. 9, 13, 14. 2 p. 51. b. 7. 44. b. 11. 8, 9, 16. See Tit. *Consultation, Jurisdiction;* and above, 13 E. 1. *Circumspect.*

2. Of Mortuaries: B. 5. 13, 19. See Tit. *Consultation, and Mortuary.*

3. Of Redemption of Penance. B. 4. 20. b. 5. 13, 14. See Tit. *Prohibition.*

4. Of laying violent Hands, &c. B. 4. 20. b. 5. 13, 14. 2 p. 51. b. 7. 44. See Tit. *Attachment upon Prohibition.*

5. Of Defamation. B. 4. 17, 20. b. 5. 2 p. 51. See Tit. *Prohibition,* and c. 4.

Art. Cl. c. 2. and the Exposition of it.

1. If Debate be of the Right of Tithes, and the Quantity of them come to the fourth Part, &c. B. 5. 2 p. 10, 52. b. 10. 136. See Tit. *Admonsion,* and *Indicavit;* and above, W. 2. c. 5. Sect. 10.

2. Of Penance, and Redemption of it; above, c. 1. and the Books there.

Art. Cl. c. 3. of laying violent Hands, and Penance for it, and Redemption of Penance. See above.

Art. Cl. c. 4. of Defamation, Penance, and Redemption of Penance; above, c. 1. Sect. 3, 5. the Books there.

Art. Cl. c. 4. of Damages, and Costs recovered in Court-Christian. B. 4. 20. b. 5. 13, 14. See Tit. *Consultation.*

Art. Cl. c. 9. of Distress taken in the Fees of the Church, or the King's High-way. See above, *Marth.* c. 15. and W. 1. c. 16. and the Books there.

Art. Cl. c. 10. of Appeals, and Approver. See above, W. 1. c. 14. 28 E. 1. of Appeals, &c. and the Books there.

Art. Cl. c. 13. of Examination of a Clerk presented to a Church, and the Exposition of it. B. 5. 2 p. 57.

b. 6. 49. See Tit. *Q. Impedit,* and the Pleas for the Bishop.

Art. Cl. c. 14. of Election of an Abbot, Bishop, &c. and the Exposition of it. See above, W. 1. c. 5. and the Books there.

Art. Cl. c. 15, 16. of Clergy, and Abjuration, and Exposition of the Statute. B. 5. 14, 26, 27. See Tit. *Clergy.*

Art. Cl. c. 10. 16. of approving in Appeals, and who shall become an Approver. B. 9. 119. b. 10, 76. See Tit. *Appeals.*

12 E. 2. *Of York.*

12 E. 2. c. 2. of Witnesses. B. 9. 32. See Tit. *Witnesses.*

12 E. 2. c. 3. of *Nisi prius.* See Tit. W. 2. c. 30. above, and the Books there. 27 E. 1. c. 4. of Fines.

12 E. 2. c. 4. of *Nisi prius,* and the Exposition of it. See above, W. 2. c. 30. and the Books there, and Stat. 27 E. 1. c. 4. of Fines, or rather of *Nisi prius.* See Tit. *Justices of Nisi prius.*

12 E. 2. c. 5. of Returns of Sheriffs; they ought to put their Names to them, and the Exposition of the Statute. B. 5. 2 p. 41. See Tit. *Return of the Sheriff.* B. 8. 162.

12 E. 2. of challenging of Essoins, where and what Essoin lies in a Writ of Dower, what not. B. 9. 15. See Tit. *Essoin.*

17 E. 2. *Prerogative.*

17 E. 2. Prerogative, c. 1. of Wards, and the Exposition of it.

Of the Words (who hold of him in chief) what is Tenure in chief, what not. B. 2. 81. b. 7. 8, 12. b. 9. 123, 131, 133. See Tit. *Tenure;* and above, *Magna charta,* c. 27. 31.

17 E. 2. Prerogative, c. 7. of Tenure of the King by Posteriority, and the Exposition of it. B. 5. 2 p. 56. See Tit. *Ward, Priority,* and *Posteriority.*

There, c. 3. of Primer Seisin, and the Exposition of the Statute. B. 8. 163, 166, 172, 173. b. 9. 16, 132. b. 10. 80.

Where the King shall have Primer Seisin of a Reversion, or Remainder.

B. 2.

B. 2. 93. b. 6. 3. b. 9. 126, 129, 132. See Tit. *Livery*, and *Ward*.

Where the King shall not have Primer Seisin of Lands to which the Tenant has but Right or Title to enter. See Tit. *Ward*, twice.

Where the King shall have Prerogative to have Primer Seisin of the Dying seized of one who had a Joint Estate with another for Life. B. 8. 163. b. 9. 126. See Tit. *Ward*, and 32 H. 8. c. 1. below.

Where the King shall have Prerogative to have Wardship and Primer Seisin of the Heir of him to whose Use; below, 4 H. 7. c. 17.

Where the King shall not have Prerogative of Primer Seisin of Lands aliened by Collusion. See Tit. *Ward*, and *Collusion*.

There, c. 4. of Women, and Assignment of Dower in Chancery. B. 9. 16, 17. See Tit. *Dower*, and *Fine to the King*, and *Magna Charta*, c. 7.

17 E. 2. Prerogative of Parceners, and Suit and Tenure by them after Partition, and the Exposition of it. B. 6. 1, 2. See above, *Marlb.* c. 9.

There, c. 6. of Wardship of the Heir married by the Father within Age of Consent, and Exposition of the Statute. B. 6. 22, 71. b. 5. 2 p. 102. b. 9. 132. See Tit. *Ward*.

There, c. 6 and 7. of Alienation without Licence. B. 2. 80, 81. b. 3. 31. b. 6. 28. b. 8. 85, 106. twice. b. 10. 25. See Tit. *Licence*.

There, c. 8. of Adwosons, and the King's Prerogative, that no Time shall prejudice him in them, and Exposition of the Statute. B. 3. 78. b. 5. 2 p. 14, 15. b. 6. 29. b. 7. 28. b. 9. 132. See Tit. *Prerogative*.

There, c. 9 and 10. of the King's Prerogative, to have the Custody of Ideots, and their Lands; and Exposition of the Statute. B. 4. 56, 126, 127. b. 8. 170. See Tit. *Ideots*.

There, c. 11. of the King's Prerogative to have Wreck of the Sea, Whales and Sturgeons, and the Exposition of it. B. 5. 2 p. 107, 108. b. 7. 16. See Tit. *Wreck*, and *West.* 1. c. 4. above.

There, c. 12. of the King's Prerogative, of Escheats, and Forfeitures of Lands held of other Lords. B. 6. 6. See Tit. *Tenure*, and *Treason*. b. 7. 20. *Calv. Cafe*.

There, c. 13. of Intrusions, and Entry upon the King's Possession before Livery, and Office found; and Exposition of the Statute. B. 2. 53. b. 4. 58. b. 8. 172. b. 9. 139. See Tit. *Intrusion*, *Dower*, and *Entry congeable*.

There, c. 15. of Prerogative in his Grants, and Patents of Things appendant, or *Esc.* and that they pass not by general Words without express Mention, *Esc.* B. 1. 50. b. 3. 31. b. 5. 2 p. 11. b. 6. 66. b. 7. 19. b. 10. 64, 65. See Tit. *Grant of the King*, and *Appendant*.

There, c. 6. of Forfeiture, and Prerogative of the King to have Year, Day, and Waste. B. 4. 124. See Tit. *Forfeiture*.

17 E. 2. Manner of doing Homage.

17 E. 2. of Homage. B. 4. 8. b. 7. 5. See Tit. *Homage*.

17 E. 2. *Of the Templars.*

17 E. 2. of Templars, and the Exposition of it. B. 3. 3. b. 7. 13. b. 11. 21.

18 E. 2. *Of Leets.*

18 E. 2. of Leets, and what Things are inquirable and presentable there, what not. B. 5. 2 p. 73, 104, 112. b. 6. 77, 78. b. 9. 112, 113. See Tit. *Leets*, *Bar*, and *Turn of the Sheriff*.

1 E. 3.

1 E. 3. c. 6. of Attaints in personal Actions, or Assessing of Damages. B. 6. 44. b. 10. 119. b. 11. 6. See Tit. *Attaints*.

1 E. 3. c. 4. Statute 2. of the King's Debts, and the Exposition of it. See above, Art. upon the Chart. c. 12. the Books there.

1 E. 3. c. 9. Statute 2. of Confirmation of Franchises. See *Mag. char.* above, c. 9. of Franchises, and their

Confirmation, and Tit. *Confirmation*, and *Franchises*.

1 E. 3. c. 11. Of Prohibition upon a Suit in Court-Christian for Defamation. See above, *Artic. Cler.* c. 1. Sect. 5. and *Circumspecte agatis*, and the Books there. See Tit. *Prohibition*.

1 E. 3. c. 12. Statute 2. of Alienation without Licence. See above, *Privogative*, c. 7. the Books there, and Tit. *Licence*.

1 E. 3. c. 13. of Tenures of an Honour, and the Exposition of it. See above, *Magna charta*, c. 31. and *Privogative*, c. 1. Sect. 1. and the Books there.

1 E. 3. c. 16. Stat. 2. of Inditements taken in Leets, or Sheriffs Turns. See above, *Magna charta*, c. 33. and 31 E. 3. c. 14. and the Books there.

2 E. 3.

2 E. 1. c. 8. of Justice, and that the Justices shall not forbear to do it, neither for the great, nor little Seal, Exposition of the Statute. B. 5. 2 p. 40. See Tit. *Superfedeas*, and *Seals*. 20 E. 3. below.

2 E. 3. c. 15. of Fairs, how they shall be held, and what Days and Places. B. 5. 2 p. 83. b. 8. 20, 127. See Tit. *Deeds*, and 5 E. 3. c. 5.

4 E. 3.

4 E. 3. c. 2. of Justices of Gaol-Delivery, and their Authority. B. 4. 46, 47. twice. b. 6. 20. b. 7. 12. b. 9. 188. b. 10. 54. b. 11. 62. See Tit. *Justices*.

4 E. 3. c. 3. of Purveyors. See above, *Art. upon the Chart.* c. 2. the Books there, and Tit. *Officers*.

4 E. 4. c. 7. of Trespafs by Executors for Trespafs done in the Time of their Testator. B. 9. 78.

4 E. 3. c. 11. of Justices of Assizes. See W. 2. c. 30. above, the Books there; and below, 14 E. 3. c. 16.

5 E. 3.

5 E. 3. c. 2. of Purveyors. See *Art. upon the chart.* c. 2. the Books there,

and 4 E. 3. c. 3. above, and Tit. *Officers*.

5 E. 3. c. 5. of Fairs, &c. See 2 E. 3. c. 15. and the Books there.

5 E. 3. c. 3. of the Marshalsea. B. 10. 69. and 10 E. 3. c. 2. below.

5 E. 3. c. 9. of Accufation, &c. See above, *Magna charta*, c. 29. and Tit. *Impleader*; and below, 42 E. 3.

5 E. 3. c. 12. Touching Charters of Pardon, and Allowance of them. B. 5. 2 p. 88. b. 6. 80. See Tit. *Charter*, and *Utinary*.

5 E. 3. c. 14. of Night-walkers. B. 9. 68. See Tit. *False Imprisonment*.

9 E. 2.

9 E. 2. c. 1, 2. of Merchants, and Merchandize. B. 8. 128. See 25 E. 3. and 27 E. 3. below.

10 E. 3.

10 E. 3. c. 2 and 3. of Charters, &c. See above, 5 E. 3. c. 12. the Books there; and below, 27 E. 3. c. 2.

10 E. 3. c. 1 and 4. of Purveyors. See above, *Art. upon the Charter*, c. 2. the Books there, and 4 E. 3. c. 3. above, 5 E. 3. c. 2. Tit. *Office*; and below, 14 E. 3. c. 17.

10 E. 3. c. 2. Of the Marshalsea. B. 10. 69. See above, 5 E. 3. c. 3. and Tit. *Marshalsea*.

There, c. 3. of Error upon Judgment given in the Court of the Marshalsea. B. 10. 69. See Tit. *Error*, and *Marshalsea*.

11 E. 3.

11 E. 3. of the Dukedom of Cornwall, and the Exposition of it. B. 8. 15 to 26, and 30.

14 E. 3.

14 E. 3. c. 4. of Englishery. B. 7. 16, 17. *Calo. Case*. See Tit. *Exposition*.

14 E. 3. c. 6. of Amendments. B. 4. 52. b. 5. 2 p. 43, 44. thrice, 45, 46. b. 8. 157, 158, 159, 161. See Tit. *Amendments*.

14 E. 3.

14 E. 3. c. 15. of Charters of Pardon of Murder, or Death of a Man, what Words are requisite, and what Charter is good, what not. B. 6. 13. See Tit. *Charter*.

14 E. 3. c. 16. of *Nisi prius*, and the Justices of *Nisi prius*, above, W. 2. c. 30. and 12 E. 2. of *York*. Tit. *Justices*, and *Nisi prius*.

There, c. 10. of Gaols and Prisons within the Counties, &c. B. 4. 34. See Tit. *Sheriffs*.

18 E. 3.

18 E. 3. c. 3. of the Clergy for Licence to alien in Mortmain, and what is good and requisite. B. 10. 25, 26, 31, 110. See Tit. *Licence*, *Ad quod damnum*; and above, 34 E. 1. of Alienation in Mortmain.

There, c. 7. for the Clergy, Jurisdiction of the Court Ecclesiastical in Cases of Tithes. See Tit. *Tithes*, *Jurisdiction*, *Prerogative*, and *Quo minus*.

20 E. 3.

20 E. 3. c. 1. of Justice, and that the Justices shall not forbear to do Right, neither for the great, nor little Seal. B. 5. 2 p. 40. See Tit. *Superfideas*, *Seals*, and 2 E. 3. above.

25 E. 3.

25 E. 3. c. 1. Of those that be born beyond Sea. B. 7. 6, 7, 16, 18, 19. *Calv.* Case. See Tit. *Alien born*, and 42 E. 3. c. 10. below.

25 E. 3. c. 2. of Treason, and the Exposition of it. B. 1. 28. b. 3. 10. b. 4. 46, 47, 124. b. 5. 2 p. 15. b. 7. 10. b. 8. 28. b. 11. 29. See Tit. *Treason*, and 26 H. 8. below.

25 E. 3. c. 1. of Cloths, c. 2. of Merchants. B. 8. 128. See 27 E. 3. below.

25 E. 3. c. 7. Of the Incumbent, and what Pleas he shall have, what not. B. 4. 117. b. 6. 48. b. 7. 26. b. 10. 54. See Tit. *Incumbent*.

25 E. 3. c. 4. of Accusation. See *Magna charta*, c. 29. above.

25 E. 3. c. 17. of Exigent in Debt, or Detinue. B. 3. 12. b. 5. 88. See Tit. *Process*, and *Execution*, and *Usury*.

25 E. 3. c. 19. of Protections. B. 7. 8, 9, 21, 23. b. 8. 68. See Tit. *Protection*.

25 E. 3. c. 22. of Provisors. B. 5. 5, 24, 25, 71. b. 7. 14. b. 11. 63. See 6 H. 4. c. 1. and 7 H. 4. c. 6. below.

27 E. 3.

27 E. 3. c. 1. of *Pramunire*, and Provisors. B. 5. 16, 17, 20, 22, 26. b. 6. Epist. 10 H. 4. there. b. 7. 14. b. 11. 34. See Tit. *Pramunire*, 16 R. 2. c. 5. and the Books.

27 E. 3. c. 2. of Charter of Pardon. See 5 E. 3. c. 12. above, and the Books there.

27 E. 3. c. 8. of the Moiety of the Jurors to be Aliens. B. 9. 11. b. 10. 104. See Tit. *Alien born*.

27 E. 3. c. 9. of Statute Staple, and what Lands shall be in Execution. B. 2. 59. b. 3. 12. b. 4. 64, 67, 82. b. 5. 2 p. 86. b. 7. 19, 21, 22, 38, 39. See Tit. *Recognisance*. 13 E. 1. of Statute Merchant, and 28 H. 8. c. 6.

27 E. 3. c. 11. of Merchants. B. 8. 128. See above, 9 E. 3. and 25 E. 3. c. 2.

28 E. 3.

28 E. 3. c. 6. of Election of Coroners, &c. W. 1. c. 10. above, and the Books there.

28 E. 3. c. 13. of Aliens, and Trial by the Half Tongue. 27 E. 3. above, and the Books there.

31 E. 3.

31 E. 3. c. 11. of Administration committed by the Ordinary. B. 1. 150. b. 3. 40. b. 5. 2 p. 30. twice; and 28. b. 8. 135, 143. b. 9. 38, 39. See Tit. *Administration*, and *Ordinary*. b. 5. 11. 16.

31 E. 3. c. 12. Of Errors in the Court of Exchequer, and where, and how they shall be reformed, corrected, and amended. B. 1. 11, 34, 38. b. 3. 11. b. 8. 58, 65. b. 11. 46, 56. See Tit. *Error*.

31 E. 3.



31 E. 3. c. 14. How, and at what Time of the Year the Sheriff's Turn, and Court-Lects shall be held. See *Magna charta*, c. 35. the Books there, and Tit. *Lects, and Turn of the Sheriff.*

34 E. 3.

34 E. 3. c. 1. of Justices of Peace, and their Authority. B. 4, 46, 47. b. 5. 2 p. 59, 71, 72. b. 8. 120. b. 9. 118, 119. b. 10. 76, 77. and Epist. there, 9 and 10. b. 11. 62. See Tit. *Justices of Peace.*

34 E. 3. c. 14. of Traverse to an Office, and the Exposition of it. See 36 E. 3. c. 13. below, and the Books there.

34 E. 3. c. 13. of the Escheator, and how he shall demean himself in taking an Inquest, &c. B. 1. 42. b. 4. 57. See Tit. *Escheator.*

34 E. 3. c. 15. of Alienation without Licence. See 17 E. 2. Prerogative, c. 7. the Books there, and Tit. *Licence.*

34 E. 3. c. 16. of Non-claim. B. 8. 100. See Tit. *Non-claim.*

36 E. 3.

36 E. 3. c. 13. of Traverse to an Office found before the Escheator, and the Exposition of it. B. 4. 56, 59. B. 7. 44, 45. See Tit. *Traverse to an Office.*

36 E. 3. c. 15. of Count, it abates not for Want of Form, and Entry of Pleas. B. 8. 161. b. 10. 132. See Tit. *Count, and Entry of Pleas.*

37 E. 3.

37 E. 3. c. 7. of Artificers. B. 11. 54. See Tit. *Atts,* and 5 *Eliz.* c. 4. below, and 22 H. 8. c. 13.

38 E. 3.

38 E. 3. c. 3. of Provisors. See 25 E. 3. c. 22. 27 E. 3. c. 1. the Books there. b. 5. 20. *Cawdry's Case.*

42 E. 3.

42 E. 3. c. 3. of Accusation. See *Magna charta*, c. 29. the Books there, and Tit. *Impleader.*

42 E. 3. c. 10. of those that be born beyond Sea, above, 25 E. 3. the Books there, and Tit. *Alien born.*

45 E. 3.

45 E. 3. c. 3. of Tithes of great Wood, and the Exposition of it. B. 2. 38, 40, 41, 44. b. 11. 48, 49. See Tit. *Attachment upon Prohibition, and Consultation.*

50 E. 3.

50 E. 3. c. 7. of fraudulent Gifts of Goods, to defraud Creditors, and the Exposition of it. B. 2. 25, 26. b. 3. 81, 82, 83. b. 5. 2 p. 60. b. 6. 18. b. 10. 56. See Tit. *Collusion.*

1 R. 2.

1 R. 2. c. 8. of Protections. See 25 E. 3. c. 19. the Books there.

1 R. 2. c. 9. of a Writ against Pernor of the Profits, and the Exposition of it. B. 1. 123, 131. b. 5. 2 p. 77. b. 11. 62. See Tit. *Maintenance of Writs,* 4 H. 4. and 1 H. 7.

1 R. 2. c. 12. of Debt against a Gaoler upon Escape, and the Exposition of it. B. 3. 43, 44, 52, 72. b. 5. 2 p. 86, 87, 88. b. 8. 142. b. 9. 68, 98. See Tit. *Authority, and Escape.*

2 R. 2.

2 R. 2. c. 3. of fraudulent Gifts of Goods to defraud Creditors, and flying into Sanctuary. Above, 50 E. 3. c. 6. and the Books there.

2 R. 2. c. 5. of News and Slanders of the great Men, and the Exposition of it. B. 4. 14. b. 5. 2 p. 125. b. 9. 56, 59.

5 R. 2.

5 R. 2. c. 2. of a Passage over Sea without the King's Leave. B. 2. 17. See Tit. *Contempt, and Seals.*

5 R. 2. c. 7. of Entry into Lands where Entry is not given by Law. See below, 8 H. 6. c. 9. Of forcible Entry, and the Books there.

6 R. 2.

6 R. 2. c. 2. of Writ to be brought into the County where the Contract was made, &c. B. 7. 1, 2. See Tit. *Writ.*

6 R. 2. c. 4. of Inrollments and Exemplifications, and their Force. B. 5. 2 p. 53, 74. See Tit. *Inrollments, and Exemplifications.*

6 R. 2. c. 6. of Rapes, of Rape and Consent to the Ravisher, &c. and the Exposition of it. B. 1. 95, 98, 137. b. 3. 39, 40, 61, 62. See Tit. *Rape, and Discent, Vesting, and Devesting, and Heir.*

7 R. 2.

7 R. 2. c. 10. of Affize in the Confine of the Countries, of Rents issuing out of Lands in several Countries. B. 4. 4. b. 7. 3. See Tit. *Affize.*

9 R. 2.

9 R. 2. c. 3. of Error, or Attaint by him in Remainder, and Exposition of the Statute. B. 3. 4, and 61. b. 9. 141. b. 10. 44. See Tit. *Attainder, and Error.*

13 R. 2.

13 R. 2. c. 1. of the Incumbent. See 25 E. 3. above.

13 R. 2. c. 5. of Admiralty, &c. B. 2. 93. b. 5. 2 p. 106, 108. b. 10. 115, 117. See Tit. *Admiralty.*

15 R. 2.

15 R. 2. c. 3. of the Admiralty, and

Jurisdiction of that Court. See above, 13 R. 2. and the Books there.

15 R. 2. c. 2. of forcible Entry. See below, 8 H. 6. c. 9. and the Books there.

15 R. 2. c. 5. of Mortmain. See above, *Magna charta*, c. 36. and 7 E. 1. of Persons religious, the Books there.

16 R. 2.

16 R. 2. c. 5. of *Premunire*, and the Judgment against those who incur it. B. 5. 5, 17, 21, 23, 24, 25. b. 7. 14. b. 9. 74. b. 11. 63. See 25 E. 3. c. 22. above, and the Books there.

1 H. 4.

1 H. 4. c. 6. of the King's Patents, the Value of the Thing granted is to be expressed in them. B. 3. 33. b. 10. 81. See Tit. *Grants of the King*, twice.

2 H. 4.

2 H. 4. c. 3. of the King's Patents, as before, 1 H. 4. c. 6. See the Books there.

2 H. 4. c. 3. of *Premunire*. B. 5. 23. See 5 E. 3. c. 22. 16 R. 2. c. 5. above, and the Books there.

2 H. 4. c. 14. of the Admiralty, and its Jurisdiction. See 13 and 15 of R. 2. above, and Books there.

2 H. 4. c. 15. of Herefy. B. 5. 23. See Tit. *Herefy.*

4 H. 4.

Of those called *Insidiatores vicarum*, and that they shall have their Clergy. B. 11. 29. See Tit. *Inditements.*

4 H. 4. c. 7. of Writs against the Pernor of the Profits, and the Exposition of it. B. 1. 123, 131. See above, 1 R. 2. c. 9. and 1 R. c. 9. and Tit. *Maintainance of Writs*, and below, 1 H. 7. c. 1.

4 H. 4. c. 22. of the Incumbent, what Pleas he shall have, not to be outed without Process. See 25 E. 3. c. 7. above, and the Books there.

5 H. 4.

5 H. 4.

5 H. 4. of Examination, &c. in Debt upon Arrearages of Account, and Law in it; where, of whom, and how. B. 6. 53. b. 10. 103. See Tit. *Examination*, and *Ley*.

5 H. 4. c. 14. touching the Inrollment of Writs upon which Fines are levied in the Office of the *Custos Brevirum*, &c. B. 5. 2 p. 39. See Tit. *Fines of Lands*.

5 H. 4. c. 10. of Gaols, none shall be imprisoned, but in the common Gaols. B. 9. 119.

6 H. 4.

6 H. 4. c. 1. of the Pope's Provisions, &c. B. 5. 23. See 25 E. 3. of Provisors, and the Books there.

7 H. 4.

7 H. 4. c. 6. of Provisions, and *Praemunire*. B. 5. 24. See above, 24 E. 3. c. 22.

7 H. 4. c. 9. of Merchants, &c. B. 8. 128.

9 H. 4.

9 H. 4. Not printed, touching the Liberties and Franchises of *London*. B. 8. 128.

1 H. 5.

1 H. 5. c. 3. of Forgery, and how punishable. B. 4. 18, b. 5. 2 p. 50. See Tit. *Forgery*.

1 H. 5. c. 5. of Additions. B. 6. 67. See Tit. *Addition*.

2 H. 5.

2 H. 5. c. 1. Of Power given to the Ordinary to enquire of Hospitals, &c. B. 5. 25.

2 H. 5. c. 2. of *Corpus cum causa* for him that is condemned in Execution, &c. B. 8. 143. See Tit. *Privilege*, and *Corpus cum causa*.

2 H. 5. c. 3. of a Libel to be delivered. B. 10. 75. See Tit. *Action upon Statute*, and *Prohibition*.

2 H. 5. c. 7. Of Heresy, &c. B. 5. 9, 25. See Tit. *Heresy*.

4 H. 5.

4 H. 5. c. 8. of Lands, &c. of Priors Aliens given to the King. B. 7. 12. *Calo. Case*.

9 H. 5.

9 H. 5. c. 5. of Amendments. See 14 E. 3. c. 6. above, and the Books there.

6 H. 6.

6 H. 6. c. 5. of Sewers, &c. B. 5. 2 p. 100. b. 6. 20. b. 10. 138, 139, 148. See Tit. *Commissions*, and *Sewers*.

8 H. 6.

8 H. 6. c. 9. of forcible Entry, and Restitution upon it. B. 5. 2 p. 120. b. 9. 118. b. 10. 116. b. 11. 30, 59, 60, 64, 65.

8 H. 6. c. 10. of Exigents to be awarded in another County, &c. and Exposition of it. B. 3. 50. See Tit. *Exigent*, and *Exposition*.

8 H. 6. c. 12. of Amendment. B. 5. 2 p. 45. b. 8. 158, 168. See above, 14 E. 3. c. 6. and Tit. *Amendments*.

8 H. 6. c. 16. of taking Lands to Farm upon Office found, and traverse Tender. B. 11. 64. See Tit. *Traverse*.

11 H. 6.

11 H. 6. c. 4. of Pernors of Profits Action maintainable against them. B. 1. 123. See above, 4 H. 4. c. 17. and the Books there, and *Maintenance of Writs*.

11 H. 6. c. 5. of Waste against Pernors of Profits, and the Exposition of it. B. 5. 2 p. 77. See Tit. *Waste*, and *Maintenance of Writs*.

18 H. 6.

18 H. 6. c. 19. of Captains and Soldiers. B. 6. 27.

20 H. 6.

20 H. 6. c. 9. of Trial by Peers. B. 6. 52. b. 9. 30, 117. See Tit. *Crown*, and Exposition; and above, *Magna Charta*, c. 29.

23 H. 6.

23 H. 6. c. 10. of the Sheriff, and Prisoners to be let to Mainprise, and Obligations to be taken by him, &c. B. 3. 50, 59. b. 4. 76. b. 5. 2 p. 119. b. 6. 19. b. 7. 14. b. 10. 100, 101. See Tit. *Mainprise*, *Obligation*, and *Debt*, where the Pleading is, And so, &c.

23 H. 6. c. 17. of Escheators, and how they are to demean themselves in taking of Inquests, and returning of Offices. B. 1. 42. b. 4. 57. See above, 34 E. 3. c. 13. See Tit. *Escheator*, and *Office before*, &c.

27 H. 6.

27 H. 6. c. 5. of Fairs, and how they shall be kept. B. 5. 2 p. 8. b. 8. 20, 127. See above, 2 E. 3. c. 15. and 5 E. 3. c. 5. and Tit. *Fairs*.

39 H. 6.

39 H. 6. c. 2. of Wardship of an Heir female, and her Age to be out of Wardship. See above, *Mert.* c. 6, 7. W. 1. c. 22. and Books there.

1 E. 4.

1 E. 4. c. 2. of Presentments in the Sheriff's Turn, and Exposition of it. B. 5. 2 p. 119. b. 9. 26. See Tit. *Turn of the Sheriff*.

12 E. 4.

12 E. 4. c. 6. of Sewers. See 6 H. 6. c. 5. above, and the Books there.

22 E. 4.

22 E. 4. c. 6. of Swans, and the Exposition of it. B. 7. 17. See Tit. *Swans*.

22 E. 4. c. 7. of Woods, and the Exposition of it. B. 8. 137, 138. See Tit. *Woods*, and 25 H. 8. below, c. 17.

1 R. 3.

1 R. 3. c. 1. of Uses, Grants, Feoffments, or &c. made by him to whose Use, and Exposition of the Statute. B. 1. 87, 101, 123, 128, 129, 131, 132, 133, 147. b. 7. 14. b. 9. 76. See Tit. *Uses*, *Devise*, *Subpoena*, and *Discent*.

1 R. 3. c. 7. of Fines, and the Exposition of it. See below, 4 H. 7. c. 24. the Books there, and 27 E. 1. of *Fines*.

1 H. 7.

1 H. 7. c. 1. of Uses, Writ against Pernors of Profits. B. 1. 123, 131. b. 4. 131. b. 5. 77. b. 11. 92. See Tit. *Maintenance of Writs*; and above, 4 H. 4. c. 17.

1 H. 7. c. 4. of the Incontinency of Priests. B. 5. 9. See Tit. *False Imprisonment*.

3 H. 7.

3 H. 7. c. 1. of Murder, the Coroner, Escape, Attorney, Appeal by a Woman within a Year against him that has been arraigned upon an Inditement, &c.

1. Of Murder, and what Death of a Man is Murder, what not. B. 4. 40, 42, 44. b. 9. 68, 81, 112. See Tit. *Crown*; and above, *Marib.* c. 25.

2. Of the Coroner, and his Authority, and of what Things he must and ought to inquire. B. 2. 93. b. 4. 41, 45, twice. See Tit. *Coroner*, twice.

3. Arraignment within a Year upon an Inditement. B. 4. 45, 47. See Tit. *Appeal*.

4. Of the Words in the Statute of him that is acquitted within the Year, &c. to be again arraigned. B. 4. 39, 46, 48. See Tit. *Appeals*, twice.

Of Attorney in Appeal. See Tit. *Attorney*; Books there.

6. Of the Words concerning the Time to begin the Appeal. B. 4. 42. b. 5. 2 p. 107. b. 7. 30. See Tit. *Appeals*, and *Time*.

7. Of

7. Of Appeal by the Wife of the Death of her Husband. B. 4. 46. See above, *Magna charta*, c. 34.

8. Of Amercement of a Town for Escape. B. 7. 7. See Tit. *Amercement*.

3 H. 7. c. 4. of fraudulent Gifts of Goods and Chattels to defraud Creditors, and Exposition of the Statute. B. 2. 25, 26. b. 3. 81, 82, 83. b. 6. 18. b. 10. 56. See Tit. *Collusion*.

3 H. 7. c. 10. of Damages for the Defendant in a Writ of Error. B. 5. 2 p. 89.

4 H. 7.

4 H. 7. c. 1. of Sewers. See above, 6 H. 6. c. 5. the Books there, and Tit. *Commission*, &c.

4 H. 4. c. 13. of Clergy, and Burning in the Hand. B. 5. 2 p. 50. See Tit. *Grant of the King*.

4 H. 7. c. 17. of Wardship of the Heir of him to whose Use. B. 88. 123. b. 4. 4, 76. b. 6. 76. See Tit. *Ward*.

4 H. 7. c. 19. of Husbandry and Tillage. B. 4. 36.

4 H. 7. c. 20. of Actions popular. B. 11. 57, 66. See Tit. *Action upon Statute*, and *Action popular*.

4 H. 7. c. 24. of Fines levied of Lands, and the Exposition of it.

1. Touching the Manner of levying Fines, and ingrossing them. See above, 18 E. 1. of the Manner of levying a Fine, and the Books there.

2. The Statute 27 E. 1. of Fines above, speaks of Fines lawfully levied. See what Fines shall be said lawfully levied, what not. B. 3. 88. b. 5. 2 p. 38, 39, 44, 45. b. 11. 77. See Tit. *Errors*.

3. Upon the Words (upon such Fine ingrossed, and Proclamation had) the Fine to bar. B. 1. 96, 97. b. 3. 86, 87, 88, 90, 91.

4. Of the Five Years for the Woman covert to claim upon a Fine levied, and how, and from what Time they shall be accounted. B. 2. 93. b. 3. 87. b. 8. 72, 100. b. 9. 140, 141. b. 10. 49, 99.

5. Of the Five Years for him in Reversion to claim upon a Fine levied by Tenant for Life, and to what

Time, and how they shall be accounted. B. 3. 77, 78, 79.

6. Of the Five Years for him in Reversion to claim upon a Fine levied by the Feoffee, or &c. of Lessee for Years, Life, or at Will, and how, and from what Time they shall be accounted. B. 3. 77, 78, 79. See Tit. *Continual Claim*.

7. Of Five Years for the Disseisor upon a Fine levied by the Disseisor, and from what Time they shall be accounted. B. 3. 79. b. 9. 105, 106. See Tit. *Continual Claim*.

8. Of Five Years for the Issue in Tail to claim upon a Fine levied by his Ancestor, or &c. where he shall have them, and how they shall be accounted, or not. B. 3. 86, 87, 88, 91. b. 9. 139. See Tit. *Continual Claim*.

9. Of Five Years for an Infant to claim upon a Fine levied, and how, and from what Time they shall be accounted. B. 3. 91. b. 8. 100. b. 9. 104. See Tit. *Continual Claim*.

10. Of Five Years for a Prisoner to claim upon a Fine, and from what Time they shall be accounted. B. 3. 91. b. 9. 87, 104. See Tit. *Continual Claim*.

11. Of Five Years for a Man over Sea to claim upon a Fine, and how, and from what Time they shall be accounted. B. 3. 91. b. 4. 129. b. 7. 23. b. 8. 100. See Tit. *Continual Claim*.

12. Of Five Years for a Man of unsound Memory to claim upon a Fine levied, and how, and from what Time they shall be accounted. B. 3. 91. b. 4. 125. b. 8. 100. b. 9. 87, 104. See Tit. *Continual Claim*.

13. Upon the Word (Interest) whether Lessee for Years be intended, and within the Statute, and how the Five Years upon a Fine shall be accounted for him to claim. B. 5. 2 p. 124. b. 9. 105.

14. How the Words of the Statute (that a Fine levied, and Five Years past, &c. shall bar) shall be intended, and where he that has a Profit, as Rent, Common, or &c. shall not be bound, tho' he claims not, &c. B. 3. 90. b. 5. 2 p. 124. b. 10. 96, 97.

15. Of

15. Of Averment, or Exception mentioned in the Statute ( That the Parties to the Fine had nothing) and who shall have it, who not. B. 3. 88, 89, 90. See Tit. *Averment*, and 27 E. 1. of Fines, above. b. 9. 141.

16. What Corporations are within this Statute, and bound to claim within Five Years, &c. what not. B. 11. 69, 71, 78. See Tit. *Corporations*.

17. Of Election of the Party to levy a Fine according to Statute, or Common Law. B. 3. 51, 86, 88. b. 8. 7, 72.

7 H. 7.

7 H. 7. c. 1. of Captains, and Souldiers. B. 6. 27.

11 H. 7.

11 H. 7. c. 18. of Captains, and Souldiers, and the Exposition. B. 6. 27. See 18 H. 6. c. 19. and 7 H. 7. c. 1.

11 H. 7. c. 17. of Swans Eggs destroyed, or &c. B. 7. 18. See Tit. *Swans*.

11 H. 7. c. 20. Of Women, and Discent of the Right of Jointures, and the Exposition of it.

1. For the Jointure of a Woman, and what Estate is a Jointure within this Statute, what not. B. 1. 176. b. 2. 76. b. 4. 3. 59. b. 5. 2 p. 25, 26. b. 7. 40. See Tit. *Dower*.

2. Of Forfeiture, and what is Forfeiture within this Statute. B. 3. 51, 59, 60, 61, 62. b. 5. 2 p. 80. b. 10. 39. See Tit. *Forfeiture*.

3. Of Warranty mentioned in this Statute, and of it. See Stat. *Glouc.* c. 3. above, and the Books there, and Tit. *Warranty*.

4. Upon the Words ( void, and of none Effect. ) See B. 3. 59, 69. and Tit. *Exposition*.

5. Who shall enter for Forfeiture upon this Statute. B. 3. 51, 59, 60.

6. Upon the Words ( And enjoy the same in such Manner and Form, as he or they should have done, is no such Discontinuance, &c. had been had, or made. ) B. 1. 101. b. 3. 61,

63. See Tit. *Chattels, Entry congeable, Vesting, and Dovesing*.

7. Of the Proviso touching the Assent and Agreement of the Person next inheritable to the Woman, or &c. where the said Assent and Agreement is of Record, and inrolled. See B. 3. 51, 61, 62.

19 H. 7.

19 H. c. 7. of Corporation. B. 11. 54. 19 H. 7. c. 9. of Process in Action of the Cases. B. 10. 72. See Tit. *Action of the Case*.

19 H. 7. Not printed, of Treason. B. 1. 27, 28, 30, 35, 40. See Tit. *Treason*.

19 H. 7. c. 15. of Uses, &c. B. 1. 88, 123. See Tit. *Uses*, above, 4 H. 7. c. 17. and the Books there.

1 H. 8.

1 H. 8. c. 10. of Lands to be leased to Farm upon Traverse Tender. B. 11. 64. See Tit. *Traverse*. Above, 36 E. c. 13.

3 H. 8.

3 H. 8. c. 5. of Captains, and Souldiers. B. 6. 27.

3 H. 8. c. 11. of Physick, and Physicians. B. 8. 116. See Tit. *Physicians*, and below, 14 H. 8. c. 5.

6 H. 8.

6 H. 8. c. 4. Of Exigents to be awarded into another County than where the Original was brought. See 8 H. 6. c. 10. above, and the Books there.

6 H. 8. c. 10. of Sewers. See 6 H. 6. c. 5. above, and the Books there, and Tit. *Commissions*, and *Sewers*.

6 H. 8. c. 9. of Recital of the King's Letters Patents. See 34 H. 8. c. 21. and 18 Eliz. c. 28. the Books there.

14 H. 8.

14 H. 8. c. 5. of Physicians. B. 8. 116,

116, 120. See Tit. *Physicians*; and above, 3 H. 8. c. 11. and 1 Ma. c. 9.

21 H. 8.

21 H. 8. c. 4. of Sale of Lands by Executors, and the Exposition of it. B. 1. 111, 173. b. 4. 55. b. 8. 76. b. 9. 76, 77. See Tit. *Devise*.

21 H. 8. c. 5. of Administration, &c. and the Exposition of it. B. 1. 150. b. 3. 40. b. 5. 2 p. 30, twice, and 82. b. 8. 135, 143. b. 9. 38, 39. See Tit. *Administration*.

28 H. 8. c. 11. of Restitution of Goods stoln, &c. B. 5. 2 p. 111. b. 6. 80. See Tit. *Appeal*, 21 H. 8. c. 13. of Pluralities, and Non-residence, &c. and Exposition of the Statutes.

1. Touching the Words (of two, or more Benefices.) B. 4. 75, 79, 90, 117, 118. See Tit. *Pluralities*.

2. Upon the Words (That then, and immediately after such Possessions thereof had, the first Benefice shall be adjudged in Law to be void) B. 4. 75, 79. b. 6. 29, 40.

3. Upon the Words (and that it shall be lawful for every Patron to present another, &c.) See for Notice to be given by the Ordinary to the Patron. B. 4. 75, 79. b. 6. 29. See Tit. *Notice*, and *Quare Impedit*, twice.

4. Touching Dispensations, &c. B. 4. 75, 79, 89, 90, 117, 118. b. 5. 28, 31. See Tit. *Dispensations*.

5. Touching Non-residence. See B. 6. 21.

6. Of the Proviso, touching a Duches, Marquees, Countes, and Barones, Widows. B. 4. 89, 90, 117, 118. See Tit. *Dispensations*.

21 H. 8. c. 15. of false Recovery by the Lessee for Years, or &c. B. 6. 57. b. 9. 135. b. 11. 33. See Tit. *Falsifying of Recovery*.

21 H. 8. c. 19. of Avowries, and the Exposition of it. B. 9. 22, 36, 136. See Tit. *Avowry*, four times.

22 H. 8.

22 H. 8. c. 13. of Artificers, and what Trades, or Mysteries shall be

constrained to be within this Statute; what not. B. 8. 129. See 5 Eliz. c. 4.

23 H. 8.

23 H. 8. c. 1. of Clergy, and Exposition of the Statute. B. 11. 30 to 34. See Tit. *Clergy*.

23 H. 8. c. 5. of Sewers. B. 10. 138, 139, 143. See above, 6 H. 6. c. 5, the Books there, and Tit. *Commissions*, and *Sewers*.

23 H. 8. c. 3. of Attaints. B. 4. 76. b. 6. 80. b. 11. 64. See Tit. *Notice*.

23 H. 8. c. 6. of Recognisance, and Statute Staple, &c. and the Exposition of it.

1. Who have Authority to take Recognisance. B. 4. 64. b. 7. 38. b. 3. 67. See Tit. *Recognisance*.

2. Form of Recognisance, or Statute Staple. B. 3. 12, and 67. b. 4. 65.

3. Touching Certification of a Statute. B. 3. 67. b. 7. 38.

4. For Execution of Land, &c. upon this Statute. See 13 E. 3. of Merchants, and 27 E. 3. c. 9. above, and the Books there; and B. 2. 59. b. 3. 12 and 13. b. 4. 31. b. 5. 2 p. 86. b. 7. 19, 20, 22, 38, 39. See Tit. *Recognisance*.

5. Upon the Words (If they be put out, or disseised, they shall have like Remedy, as Persons having Execution in, or upon any Case of the Staple, &c.) B. 5. 2 p. 105. above, W. 2. c. 18. and 13 E. 1. of Merchants, 27 E. 3. c. 9. of the Staple. B. 11. 64. and Tit. *Assize*.

23 H. 8. c. 9. of Citations. B. 5. 9.

23 H. 8. c. 10. of Mortmain, and the Exposition of it. B. 1. 23, 24. b. 11. 71. See Tit. *Mortmain*, twice.

24 H. 8.

24 H. 8. c. 12. of Appeal upon Suits in the spiritual Court. B. 2. 45, 71. b. 5. 9, 28. 2 p. 51. b. 6. 18, 19. b. 8. 143. See Tit. *Appeal*.

25 H. 8.

25 H. 8. c. 3. of Clergy. B. 11. 32 to 37. 25 H. 8.

25 H. 8. c. 14. of Heresy. See above,  
2 H. 4. c. 15. and the Books there.  
25 H. 8. c. 19 and 21. of the Clergy's  
Submission to the King, and Exoner-  
ation of the Papal Exactions and Ex-  
positions of them. B. 1. 24. b. 3. 74. b. 5. 30.

26 H. 8.

Of Treason beyond Sea, Trial and  
Forfeiture of Lands for it, &c. and  
the Exposition.

1. Touching the Trial. See below,  
33 H. 8. c. 23.

2. For the Forfeiture, see what  
Lands shall be forfeited to the King  
for Treason. B. 1. 103. b. 3. 10, 35.  
b. 7. 33, 34. b. 8. 72, 166. b. 9. 140.  
See Tit. *Treason*, and 33 H. 8. c. 20.  
below.

3. Upon the Words (Forfeit and  
Loss to the King, his Heirs, and Suc-  
cessors all such Lands, &c.) yet can-  
not the King enter and seize without  
Office. B. 1. 42. b. 3. 10. See Tit.  
*Entry congeable*, and 33 H. 8. c. 20.  
below.

4. Touching the Saving. B. 8. 72.  
b. 9. 140.

5. This Statute speaking of Treason,  
and the Forfeiture, but setting  
down no Treason in certain, see for  
that 25 E. 3. c. 2. and the Books there.

27 H. 8.

27 H. 8. c. 10. of Uses and Jointures,  
and the Exposition of it, with the  
Inconveniences which happened by  
Uses before this Statute.

1. For Devises of Uses. See 1 R. 3.  
c. 1. the Books there, and Tit. *Devises*.

2. Touching Wards, &c. See 4 H. 7.  
c. 17. above, and the Books there.

3. Touching Executions, and Re-  
lief to be had of Lands in Use. See  
19 H. 7. c. 15. above, and the Books  
there.

4. Upon the Words (against whom  
to have their Actions for their Right)  
See 4 H. 4. c. 7. of Affize against Per-  
nor of the Profits and Books there,  
and 11 H. 6. c. 4. above, of Actions

against Pernor of Profits, and the  
Books there; and 1 H. 7. c. 1. above,  
of Formedon against the Pernor of  
the Profits, and the Books there.

5. Upon the Words (Men mar-  
ried have lost their Tenure by Cour-  
tesy.) See B. 1. 123, 124. and Tit.  
*Courtesy*.

6. Upon the Words (and Women  
their Dowrs.) B. 1. 123, 124. and  
Tit. *Dower*.

7. Upon the Words (the King's  
Highness hath lost the Advantage  
and Profits of Lands put in Feoff-  
ment to the Uses of Aliens born.) See  
Tit. *Alien born*, and b. 1. 123.

8. Upon the Words (and also the  
Profits of Waste for a Year and Day.)  
B. 1. 123. above, *Prerogative*, c. 16.

9. Upon the Words (the Lords  
their Escheats.) See B. 1. 124. and  
Tit. *Escheat*.

10. Upon the Words of the Pre-  
amble, and Words of the Purview of  
the Statute (Inconveniences have  
happened, and daily do increase a-  
mong the King's Subjects, to their  
great Trouble and Unquietness, and  
to the utter Subversion of the antient  
Common Laws of the Realm: For  
the Extirpating and Extinguishment  
of all such subtil practised Feoff-  
ments, &c.) B. 1. 123, 124, 125, 129,  
131, 132, 138, 139. b. 6. 34, 43.

11. Upon the Words of the Pur-  
view of the Statutes (That where  
any Person or Persons stand and be  
seized of, and in any Manors, Lands,  
&c. to the Use, Confidence, or Trust  
of any other Person, &c. that all  
and every such Person and Persons,  
and Bodies politick shall stand and  
be seized, deemed and adjudged in  
lawful Seisin, Estate, and Possession  
of, and in such like Estate as they  
had, or should have in Use, Trust,  
or Confidence of any in the same.)  
B. 1. 54, 68, 86, 101, 124, 125, 126,  
127, 129, 130, 131, 132, 133, 135,  
136, 137, 138. b. 2. 35, 36, 53, 54,  
71, 78. b. 3. 27, 62. b. 5. 2 p. 112,  
113. b. 6. 27, 28, 34, 43, 68, 69. b.  
7. 9, 13, 40. b. 8. 94. b. 10. 85. See  
Tit. *Discent*.



12. Upon the Words (where divers Persons stand and be seized of, and in Lands, &c. to the Use and Intent that some other Person, or Persons shall have and perceive one annual Rent, &c.) B. 2. 78.

13. Touching the Savings of ancient Rights, and the Exposition of them, &c. B. 1. 125. b. 7. 19, 39.

14. Touching Jointure of Women, and the Exposition of it. B. 1. 32. b. 5. 27, 28, 30. b. 4. 1, 2. b. 5. 2 p. 25, 26. b. 8. 173. b. 9. 26. See Tit. *Dower*.

15. Of the Proviso mentioned in the Statute, For the King to have Ward, Livery, or Primer Seisin. B. 1. 125. b. 6. 27, 28.

16. Upon the Words (that Actions now depending, &c. shall not abate, or be discharged for, or by Reason of executing any Authority by this Act. B. 1. 125.

17. Touching the Proviso, concerning Persons born in *Wales*, &c. B. 1. 125.

27 H. 8. of Monasteries, not printed. B. 1. 24. b. 3. 2.

27 H. 8. of private Assurances, not printed. B. 5. 2 p. 4, 5, 6.

27 H. 8. c. 16. of Inrollments of Bargains and Sales, and the Exposition of it. B. 2. 36, 45. b. 4. 50, 71. b. 7. 40. b. 8. 6, 93, 94. b. 9. 106. b. 11. 24, 48. See Tit. *Inrollments*, and *Exposition*.

27 H. 8. c. 20. of Tithes, and the Subtraction of them. B. 5. 9.

27 H. 8. c. 24. of Resumption of Franchises into the King's Hands. B. 7. 25. *Calv. Case*. See Tit. *Resumption*, and *Grant to the King*.

27 H. 8. 27. of the Court of Augmentations, and Leases made of Lands within the Survey of it. B. 11. 12, 59. See Tit. *Seats*.

28 H. 8.

28 H. 8. c. 10. for abolishing the Pope's Authority. B. 1. 24.

28 H. 8. of Treason, not printed. B. 3. 2. b. 7. 11, 15.

28 H. 8. of Assurance of Lands,

not printed. B. 1. 30, 41, 47, 50, 51, 52. b. 7. 12, 15.

31 H. 8.

31 H. 8. c. 1. of Partition. B. 6. 12, 13.

31 H. 8. c. 13. of Monasteries and religious Houses, and the Dissolution of them, and Exposition of the several Branches of it.

1. Touching the Surrender, giving up, and suppressing of them, and what are to be accounted religious Houses within this Statute, what not. B. 1. 24. b. 2. 19, 46, 47, 48, 49. b. 3. 73. b. 5. 2 p. 44. b. 11. 12. See below, 1 E. 6. c. 14.

2. Upon the Words (suppressed, dissolved, renounced, forfeited, or by any other Means coming to the King, &c.) B. 2. 46.

3. Upon the Words (All Lands, &c. Annuities, Rights, Interests, Conditions, Entries, &c.) B. 3. 2. See below, 33 H. 8. c. 20.

4. Upon the Words (vested, deemed, and judged in the very actual and real Possession and Seisin of, &c. in the State and Condition as they now be.) B. 1. 47. b. 2. 46, 49. b. 10. 55.

5. Touching the Saving in the Act, and the Exposition of it. B. 1. 47. b. 2. 49. b. 10. 55. See Tit. *Exception*, and 1 E. 6. c. 14. below, and *Parliament*.

6. Upon the Words (that if any Abbot, &c. within one Year next before the first Day of this present Parliament hath made, or hereafter shall make any Lease, or Grant for Life, or Term of Years of, &c. and in which any Estate, or Interest for Life, Year, or Years, at the Time of making of such Grant, or Lease, then had his Being, or Continuance, or &c.) See B. 3. 7.

7. Touching that Part of the Statute, which concerns and speaks of Misrecital, &c. and the Exposition of it. See 34 H. 8. c. 11. below, and Tit. *Grants of the King*.

8. Upon

8. Upon the Words (That as well the King, &c. as all and every such Person or Persons, &c. shall hold, retain, keep, and enjoy, &c. discharged and acquitted of Payment of Tithes, as freely, and in as large and ample Manner as, &c. B. 2. 46, 47, 48, 49. b. 11. 9, 10, 11, 14, 16. See Tit. *Tithes*.)

32 & 34 H. 8.

32 and 34 H. S. c. 1 and 5. of Wills and Devises, Wards, Primer Seisin, and Relief, with the Exposition of the several Parts of it.

1. Note, that where by the Common Law no Lands were devisable, but by Custom, within the antient Cities and Boroughs, and where by Stat. 1. R. 3. (above) before Use of Lands was devisable; after by Stat. 27 H. 8. c. 10. (above) no Land, nor Use was devisable, now by these Statutes Lands are devisable according to the Purview of them. B. 6. 16, 76.

2. Upon the Words (All and every Person and Persons having, or which hereafter shall have any Manors, Lands, &c. may devise them.) B. 3. 30, 31. b. 10. 82, 83, 84. See Tit. *Devises*.

3. Upon the Words (By his last Will and Testament in Writing.) See B. 1. 25. b. 3. 31. b. 4. 4. b. 5. 2 p. 68. b. 6. 76, 77. b. 8. 84, 85. See Tit. *Devises*.

4. (Or otherwise by Act lawfully executed in his Life, &c.) B. 3. 34. b. 6. 76, 77. b. 10. 80, 81, 33. b. 11. 24. See Tit. *Devises*.

5. Upon the Words (To any Persons except Bodies politick, or corporate.) B. 1. 25.

6. Upon the Words (Holden in Socage, and not having, &c.) B. 3. 30, 31, 34, 35. b. 10. 80, 81, 82, 83. b. 11. 24.

7. Upon the Words (Holden of the King in Socage, or Knights Service in chief, &c.) B. 3. 30, 31, 34, 35. b. 6. 18. b. 8. 84, 85. b. 10. 80 to 84. See Tit. *Devises*.

8. Upon the Clause and Words con-

cerning Tenure by Knights Service of other Lords. B. 2. 25. b. 3. 32, 34. b. 8. 84. b. 9. 133. See Tit. *Devises*.

9. Upon the Words (To and for the Advancement of his Wife, Preferment of his Children, and Payment of his Debts, or otherwise.) B. 2. 76, 77, 94. b. 3. 31. b. 6. 76, 77. b. 8. 164, 173. b. 9. 133. b. 10. 81, 83, 84, 85. See Tit. *Devises*.

10. Upon the Words (Preferment of his Children) and how, and to which of the Blood these Words shall refer, and be intended, to which not. B. 6. 77. b. 10. 83. See Tit. *Devises*.

11. Upon the Proviso and Words of the Statutes, for the full Supply of the full third Part, which shall be to the King, or other Lord, if the same be not, or do not amount to the clear yearly Value of the full third Part, &c. B. 3. 27, 31. b. 9. 33. b. 10. 83.

12. Tho' the Statute 32 H. 8. gives Power to all and every Persons to devise, or &c. yet the Statute 34 H. 8. adds these Words (That Wills and Testaments made of &c. by any Woman covert, or Person within the Age of 21 Years, Idiot, or of non-sane Memory shall not be taken to be good, or effectual in the Law, &c.) B. 6. 23. b. 4. 61. b. 8. 144. See Tit. *Testament*.

13. Upon the Words (which shall immediately descend, revert, remain, or come, &c.) B. 3. 27, 28, 34. See Tit. *Exposition*.

14. Upon the Words of the Statute 34 H. 8. (or any Rents, Commons, or other Profits, or Commodities, out of, or to be perceived of Two Parts, or any Parcel thereof in Three Parts to be divided, &c. B. 3. 33. b. 8. 84.)

15. Upon the Savings, Reservations, and Provisions for Ward, Marriage, Relief, Primer Seisin, and Fine for Alienation. B. 2. 93, 94. b. 3. 31, 34, 66. b. 6. 76. b. 8. 164, 165, 173. b. 9. 126, 132, 133. b. 10. 80, 81, 82. See Tit. *Ward, Relief, Prerogative, and Alienation without Licenc.*

16. Touching Conveyance by Fraud and Covin, to the Intent to defraud, or deceive the King of his Prerogative, Primer Seisin, Livery, Relief, Wardship, Marriages, or other Rights, &c. B. 2. 94. b. 6. 76, 77. b. 8. 164. See Tit. *Marib.* c. 6. above, and *Collusion*.

17. Upon the Words (where two or more now hold, or hereafter shall hold any Manors, Lands, &c. jointly to them, and to the Heirs of one of them, and he that hath the Inheritance thereof dieth his Heir within Age, &c.) B. 8. 163. b. 9. 126. See Tit. *Ward*.

32 H. 8. c. 24 of Limitation in Writs, or &c. and the Exposition of it. B. 4. 10, 11. b. 7. 40. b. 8. 65, 126. b. 9. 36. b. 11. 68. See Tit. *Limitation*, and *Copyhold*.

32 H. 8. c. 5. of Extents, and Execution, and the Exposition of it. B. 4. 66, 67. b. 5. 2 p. 87. See Tit. *Extent*, and *Recognisance*.

32 H. 8. c. 7. of Tithes, and Affize for them, and the Exposition of it. B. 2. 44. b. 5. 9. b. 11. 25. See Tit. *Affize*, and *Tithes*.

32 H. 8. c. 6. of Maintenance, and Buying and Selling Titles. B. 4. 26. See Tit. *Maintenance*.

32 H. 8. c. 12. of Sanctuaries. B. 5. 26. See Tit. *Sanctuaries*.

32 H. 8. c. 20. of Franchises extinct and revived, which came to the King by Dissolution of Monasteries, and Exposition of it. B. 9. 25, 26, 27. b. 10. 64, 65. See Tit. *Franchises*.

32 H. 8. c. 28. of Leases by Tenant in Tail, Churchmen, Husband and Wife, and of Discontinuance by the Husband of his Wife's Right, and Exposition of the several Parts of it.

1. Upon the Words concerning Leases made by Tenant in Tail, and which are good, and warranted by this Statute, which not. B. 3. 50, 51. b. 5. 2 p. 6. b. 6. 37. b. 7. 7. b. 8. 34. b. 9. 140. b. 10. 51. See Tit. *Acceptance*, and *Leases*.

2. Upon the Words which concern Churchmen, as Bishops, Deans, &c. B. 5. 2 p. 2, 6. b. 3. 85. b. 10. 60.

See below, 1 Eliz. not printed, and 13 Eliz. c. 10 and 20.

3. Upon the Words which concern the Discontinuance of the Husband, &c. See Tit. *Discontinuance*, and above, 11 H. 7. c. 20. the Books there.

32 H. 8. c. 30. of Jeofails and Repleader. B. 5. 2 p. 35, 36, 37, 41, 42, 43, 45. b. 8. 162, 163. b. 11. 6, 7, 8.

32 H. 8. c. 31. of Recovery against Tenant for Life, and the Exposition of it. B. 1. 15. b. 3. 61. See Tit. *False Recovery*, *Entry congeable*, *Forfeiture*, and below, 14 Eliz. c. 8.

32 H. 8. c. 32. of Partition. B. 6. 12, 13. See 31 H. 8. c. 1. above.

32 H. 8. c. 33. of Entry upon Dissent after Dissaign with Force, and the Exposition of it. B. 11. 33. See Tit. *Entry congeable*.

32 H. 8. c. 34. of Conditions, and the Exposition of it, and who shall enter for a Condition within the Meaning of this Statute, who not. B. 3. 63. b. 4. 120. b. 5. 2 p. 16, 17, 112, 113. See Tit. *Conditions*, and *Apporportionment*.

32 H. 8. c. 36. of Fines, and the Exposition of it. B. 1. 96. b. 2. 15, 16. b. 3. 51, 87, 88, 91. b. 7. 32. b. 9. 140, 141. b. 10. 50, 96. See Tit. *Averment*, and above, 4 H. 7. c. 24.

32 H. 8. c. 37. of Arrearages of Rent and Debt given to Executors for them, and the Exposition of it. B. 4. 50, 51. b. 5. 2 p. 118. b. 7. 3. b. 8. 64, 65. See Tit. *Arrearages*, *Exposition*, and *Execution*.

32 H. 8. c. 46. of Wards, and Erection of the Court of Wards, &c. B. 11. 3, 4, 64. above, 1 H. 8. c. 10. b. 9. 31.

33 H. 8.

33 H. 8. c. 6. of Guns, and the Exposition of it. B. 5. 2 p. 72.

33 H. 8. c. 12. of the Marshalsea. See *Artic. upon the Chart.* c. 3. and the Books there.

33 H. 8. c. 3. of *Wales*, the County-Court there where to be kept. B. 4. 33.

33 H. 8. c. 20. of Treasons, and vesting the Possession in the King

out Office, and the Exposition of it; and what Things are given to the King by it, what nor. B. 1. 42, 48, b. 3. 3, 10. b. 5. 2 p. 52. b. 7. 12, 13, 14. See Tit. *Entry congeable*.

33 H. 8. c. 23. of Trial of Treason. B. 7. 23. b. 11. 63. See Tit. *Crown*.

33 H. 8. c. 29. of Ability of Persons Ecclesiastical. B. 3. 74.

33 H. 8. c. 39. of the King's Debts, and how they shall be levied and satisfied; and the Exposition of the Statute. B. 3. 12. b. 7. 21, 22. See Tit. *Distress*.

## 34 H. 8.

34 H. 8. c. 5. of Wills and Wards, and the Exposition of it. See 32 H. 8. c. 1. and Books there, above.

34 H. 8. c. 4. of Bankrupts. See below, 13 Eliz. c. 7. and Books there.

34 H. 8. c. 8. of Physicians. See 3 H. 8. and 14 H. 8. and the Books there.

34 H. 8. c. 20. of Recovery against Tenant in Tail, the Reversion, or Remainder in Tail, and the Exposition of it. B. 1. 49. b. 2. 16, 17, 52. b. 6. 55. b. 8. 74, 78. See Tit. *Discontinuance*.

34 H. 8. c. 21. of Confirmations of the King, of his Grants, and Letters Patents, notwithstanding Misrecital, &c. B. 2. 33, 34. b. 3. 76. b. 9. 47. See Tit. *Grants of the King*, 18 Eliz. c. 2. Books there.

## 35 H. 8.

35 H. 8. c. 1. for the Establishing of the Crown. B. 1. 24.

35 H. 8. c. 6. of the Jurors *De circumstantibus* of those that are present, and the Exposition of it. B. 1. 4, 19, 114. b. 2. 19, 29, 32. b. 3. 18, 45, 68. b. 9. 43. b. 10. 103, 104, 105. See Tit. *Jurors*, and 14 Eliz. c. 9. below, and 4 & 5 P. & M. c. 7.

35 H. 8. c. 17. of Woods, and the Exposition of it. B. 8. 137, 138.

37 H. 8. c. 4. of Monasteries. B. 1. 24. b. 2. 49.

37 H. 8. c. 6. of Felonies in burning of Houses, and the Exposition of it. B. 4. 20. b. 11. 29 to 35. See Tit. *Crown*.

37 H. 8. c. 8. of Inditements, &c. B. 11. 29. See Tit. *Inditements*.

37 H. 8. c. 9. of Usury, and the Exposition of it. B. 3. 80, 81. b. 5. 2 p. 69, 70. b. 9. 26. See Tit. *Usury*, and 13 Eliz. c. 8. below.

37 H. 8. c. 12. of Tithes, and where, and who shall pay them, and how. B. 1. 111. b. 2. 49. b. 11. 10, 14, 16. See Tit. *Tithes*, and 2 E. 6. c. 13.

37 H. 8. c. 16. of Leaves made of Lands in the County Palatine, and under what Seals, &c. B. 8. 63. b. 9. 122. b. 11. 11 and 67. See Tit. *County Palatine*.

37 H. 8. c. 22. of Jurors of those that are present. See 35 H. 8. above, and the Books there.

## 1 E. 6.

1 E. 6. c. 2. of Election of a Bishop. B. 5. 9. See Tit. *Election*.

1 E. 6. c. 7. of the King's Demise, and Discontinuance of Process. B. 4. 4. b. 7. 30; 31. See Tit. *Discontinuance of Process*.

1 E. 6. c. 8. of Confirmation of the King's Letters Patent, notwithstanding Misnaming. See above, 34 H. 8. c. 21. the Books there, and Tit. *Grants of the King*, and 15 El. c. 2.

1 E. 6. c. 14. of Chaunteries, and Exposition of the several Parts of it.

1. Upon the Words (all Manner of Colleges, Free-Chappels, and Chauntries, &c.) B. 1. 24. b. 2. 46. b. 3. 2. b. 4. 106, 107, 108, 109, 114. b. 7. 8. b. 10. 83. b. 11. 13.

2. Upon the Words (all Manors, Lands, Tenements, &c. belonging to any of them.) B. 4. 107, 108, 111 to 116.

3. Upon the Words (by any Mean, Assurance, Conveyance, Will, Devise, or otherwise had made, knowledged,

ledged, &c. to the finding of any Priest, to have Continuance for ever, and wherewith, or whereby any Priest was sustained, maintained, and found within Five Years, &c.) B. 4. 107, 108, 109, 110, 111, 113, 114, 115, 116.

4. Upon the Words (or for Term of Years yet continuing, and that any Priest hath been maintained and sustained with the same, or with the Revenues or Profits thereof within Five Years, &c.) B. 4. 106, 107.

5. Upon the Words (and also all annual Rents, Profits and Emoluments at any Time within Five Years &c. employed, payed, or bestowed towards, or for the Maintenance, Supportation, or Finding any stipendiary Priest, &c.) B. 4. 109 to 116.

6. Touching good and charitable Use, approved by this Statute. B. 1. 24. b. 4. 109, 111, 113, 114, 116.

7. Upon the Words (shall by the Authority of this present Parliament, be adjudged and deemed, and also be in very actual and real Possession and Seisin of the King, &c.) without any Office, or other Inquisition thereof to be had, or found (see 31 H. 8. c. 13. above, and 33 H. 8. c. 20.) in as large and ample Manner and Form as the Priests, Wardens, Masters, &c. had occupied, or enjoyed the same. B. 1. 51. b. 2. 4. b. 4. 107, 109, 112. b. 7. 8.

8. Upon the Word of (saying) in the Act to the Lords, their Rents, Fines, &c. B. 1. 47. b. 8. 118. See Tit. *Exception*.

9. Upon the Words (that all and every Gift and Grant heretofore made to the late King, &c. or to our sovereign Lord the King that now is, by any Archbishop, Bishop, Dean, Archdeacon, Treasurer, Prebendary, &c. shall be good and effectual, &c.) B. 11. 7, 8.

1 E. 6. c. 1. of Clergy. B. 11. 32, 33, 35, 36. See Tit. *Clergy*, and 23 H. 8. c. 1. above, and 25 H. 8. c. 3. and 5 E. 6. below.

2 E. 6.

2 E. 6. c. 22. of Souldiers, B. 6. 27. See 18 H. 6. 19. above.

2 E. 6. c. 8. of Tenures, and Officers, and Traverser to Offices, and the Exposition of the several Parts of it. B. 4. 56, 60. b. 7. 4, 5. b. 8. 168, 169. See Tit. *Livery, Traverser, Office before the Escheator, and Tenures*.

2 E. 6. c. 12. of Tithes, and Payment, and Substraction of them. See 37 H. 8. c. 12, and the Books there. B. 1. 111. b. 2. 44 to 49. B. 11. 10, 14, 16. b. 5. 9. See Tit. *Tithes*.

2 E. 6. c. 24. Trial of Murder in several Counties. B. 7. 2, 23. b. 9. 117, 118. See Tit. *Appeals, and Crown*.

3 E. 6.

3 E. 6. c. 3. of Approvement of Commons, and the Exposition of it. See *Mert.* c. 4. above, the Books there.

3 E. 6. c. 4. of *Constats*, and Exemptions for the King's Patentees. B. 5. 2 p. 52, 53. See Tit. *Exemptions*.

5 E. 6.

5 E. 6. c. 9, 10. of Clergy, and the Exposition of them. B. 11. 32, 33, 35, 36, 37. See Tit. *Clergy*, and above, 23 H. 8. and 1 E. 6. c. 12.

5 E. 6. c. 16. of Buying and Selling of Offices, and the Exposition of it. B. 1. 24. b. 3. 83.

5 E. 6. c. 20. of Usury. See 37 H. 8. c. 9. and the Books there. 13 El. c. 8. below.

6 E. 6.

6 E. 6. of *Wales*. B. 11. 64.

1 *Mar.*

1 M. c. 3. against Divine Service. B. 5. 9.

1 M. c. 5. of Limitations. See 32 H. 8. c. 2. above, the Books there, and Tit. *Limitation*.

1 M. 9. of Physicians. B. 8. 109, 114 to 120. See above, 3 H. 8. c. 11. and 14 H. 8. c. 5.

1 M. c. 12. of Riots, and the Exposition of it. B. 11. 82. See Tit. *Riots*.

## 1 &amp; 2 P. &amp; M.

1 & 2 P. & M. c. 6. of Herefy. See 2 H. 4. c. 14. the Books there.

1 & 2 P. & M. c. 8. of Devises made to spiritual Persons. B. 1. 25.

## 2 &amp; 3 P. &amp; M.

2 & 3 P. & M. c. 2. of Tillage and Husbandry. See 4 H. 7. above, and the Books there.

2 & 3 P. & M. c. 6. of Purveyors, and their Authority, above, *Art. upon the Charter*, c. 2. the Books there. See *Tit. Officers*.

2 & 3 P. & M. c. 7. of Fairs, and the Order how they shall be kept, &c. See 27 H. 6. c. 5. the Books there, and *Tit. Contracts*, and *Fairs*.

## 4 &amp; 5 P. &amp; M.

4 & 5 P. & M. c. 1. of Confirmation of Letters Patent, notwithstanding Misnaming, false, or Misrecital, &c. See 34 H. 8. c. 21. above, and the Books there, and 18 El. c. 2. below, and the Books there, and *Tit. Grant of the King*.

4 & 5 P. & M. c. 5. of Drapery, and the Exposition of it. B. 6. 20.

4 & 5 P. & M. of Clergy. B. 11. 37.

4 & 5 P. & M. c. 7. of Jurors *De circumstantibus*. See above, 35 H. 8. c. 6. and the Books there.

4 & 5 P. & M. c. 8. of Rape and Ravishment of &c. See above, 6 R. 2. c. 6. and the Books there.

## 1 Eliz.

1 Eliz. not printed, Of Leases made by Bishops, and the Exposition of it. B. 3. 59 twice. b. 4. 76. b. 5. 2 p. 2, 3, 6, 14. b. 10. 60, 61. b. 11. 71, 72. See *Tit. Leases*.

1 El. c. 2. of Ecclesiastical Jurisdiction, and Divine Service, &c. and the Exposition of it. B. 4. 4. b. 5. 1 to 10, and 33. b. 11. 61.

## 5 Eliz.

5 El. c. 4. of Labourers, &c. and the Exposition of it. B. 6. 19. b. 8. 129. b. 11. 54. See *Tit. Labourers*, and 22 H. 8. c. 13. above.

5 El. c. 1. of the Death of him that is convict in *Premunire*. B. 7. 14. See above, 25 E. 3. c. 22. of Provisors, and *Tit. Crown*.

5 El. c. 9. of Perjury, and the Exposition of it. B. 5. 2 p. 99. twice. b. 11. 13, 98. See *Tit. Perjury*.

5 El. c. 29. *De Excommunicato capiendo*. B. 5. 9. See *Tit. Excommunication*.

## 13 Eliz.

13 El. c. 2. against the Pope's Bulls. B. 5. 36.

13 El. c. 4. of Receivers, Tellers, &c. to make their Lands liable to satisfy the King's Debts. B. 10. 55, 56. b. 11. 93.

13 El. c. 5. of fraudulent Gifts of Goods to defraud, &c. and the Exposition of it. B. 3. 80 to 83. b. 5. 2 p. 60. b. 6. 18. b. 10. 56. See 3 H. 7. c. 4. above, the Books there, and *Tit. Collusion*.

13 El. c. 6. of *Constats* and Exemptions, &c. See above, 3 E. 6. c. 4. the Books there, and *Tit. Exemptions*.

13 El. c. 7. of Bankrupts, and the Exposition of it. B. 2. 25, 26. b. 8. 98, 121. See *Tit. Bankrupt*.

13 El. c. 8. of Usury, and the Exposition of it. B. 3. 80. b. 5. 2 p. 69, 70. b. 8. 63. b. 9. 26. See above, 37 H. 8. c. 9. the Books there.

13 El. c. 9. of Sewers, and their Authority. See 6 H. 6. c. 5. the Books there, and *Tit. Commissions*.

13 El. of the general Pardon, and the Exposition of it. B. 6. 13, 28.

13 El. c. 10. of Leases made by Church-men, for avoiding Dilapidations. B. 2. 46. b. 3. 60. b. 4. 76, 120. b. 5. 9. 2 p. 6, 14. b. 6. 37. b. 7. 8. b. 11. 67. See *Tit. Leases*, and *Parson*.

13 El. c. 12. of Ecclesiastical Matters, and the Book of Articles, and

Statutes.

other Things concerning Ministers. B. 2. 45. b. 5. 2 p. 102. b. 6. 29. See Tit. *Notice*.

14 Eliz.

14 El. c. 8. of Recovery against Tenant for Life by Collusion, and the Exposition of it. B. 1. 15. b. 3. 60. S-e 32 H. 8. c. 31. and Tit. *Entry congeable*, and *Forfeiture*.

18 Eliz.

18 El. c. 2. of Confirmations of the King, notwithstanding Misnaming, Misrecital, false Recital, &c. and the Exposition of it. B. 4. 36. b. 5. 2 p. 15. b. 9. 47. b. 11. 67, 76. See 34 H. 8. c. 21. and Tit. *Grant of the King*.

18 El. c. 5. of Informers and Informations. B. 6. 19. See Tit. *Information*.

18 El. c. 7. of Purgation to be made, and the Exposition of it. B. 5. 2 p. 50, 110. b. 6. 68. b. 11. 29, 50. See Tit. *Clergy*.

18 El. c. 11. of Leases made by Persons spiritual. B. 4. 76, 120. See above, 13 El. c. 10.

18 El. c. 14. of Jeofails, &c. and the Exposition of it. B. 5. 2 p. 35, 36, twice, 37, 41, 42, twice, 43, 45. b. 8. 58, 120, 133, 162, 163. b. 11. 6, 7, 8. above, 32 H. 8. c. 30. and Tit. *Repleader*, and *Amendment*.

23 Eliz.

23 El. c. 1 and 2. against the Pope and Recusants. B. 5. 38. b. 11. 59. See Tit. *Recusants*, and 35 El. c. 1. below.

23 El. c. 3. of Errors upon Fines and Recoveries, and what shall be amended in them, what not. B. 5. 2 p. 38, 39, 44, 45. See Tit. *Fines*, and *Error*, and below, 27 El. c. 8. and the Books there.

27 Eliz.

27 El. c. 1 and 2. against the Pope and Jesuits, &c. B. 5. 9.

27 El. c. 4. against fraudulent Assurances of Lands, and Exposition of the Statute. B. 3. 80, 82, 83. b. 5. 2 p. 60. b. 6. 72. b. 11. 74, 93. See Tit. *Collusion*, and 13 El. c. 5. above.

27 El. c. 5. of Demurrers, and the Exposition of it. B. 3. 57. b. 5. 2 p. 74. b. 7. 9. b. 10. 88, 92, 94, 98. See Tit. *Demurrer*.

27 El. c. 8. of Errors, &c. and the Exposition of it. B. 3. 70. b. 4. 18, 27, 28, 43, 53, 85, 86, 89, 97. b. 6. 13, 80. See Tit. *Errors*, and 23 El. c. 3. the Books there, and 43 El. of General Pardon.

29 Eliz.

29 El. c. 6. against Recusants, and the Exposition of it. B. 11. 57 to 66. See Tit. *Recusants*, and 35 El. c. 1. below.

35 Eliz.

35 El. c. 1. against Recusants, and the Exposition of it. B. 11. 57, 58, 59, 60 to 65. See above, 23 El. c. 1. 29 El. c. 6.

35 El. c. 3. of Confirmation of Letters Patent, and Grants of the King.

H. 8. of Priory Lands, &c. and Exposition of it. B. 3. 76. b. 11. 11. See 34 H. 8. c. 21. above.

43 Eliz.

43 El. of general Pardon, and the Exposition of it. B. 6. 79.

43 El. c. 1. of Confirmations of the Queen's Letters Patents granted by her, and the Exposition of it. B. 8. 28, 29. b. 10. 110. b. 11. 75.

3 Jac.

3 Jac. c. 4. against Recusants. B. 11. 59, 61, 64, 65. See Tit. *Recusants*, and 23 El. 29 El. 35 El. above.

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Where and what Statutes shall extend by Equity and Construction to another Estate in Lands, or *&c.* than the Estate mentioned in the Statute, where and what not. B. 1. 84, 87, 96, 103, 128, 130, 131, 135, 138, 154. b. 2. 15, 36, 52, 61. b. 3. 4, 22, 61. b. 4. 2, 4, 58, 63, 106, 116, 120. b. 5. 2 p. 6. 56, 75, 76, 118. b. 6. 28, 31, 50, 76. b. 7. 41. b. 4. 7, 65, 94, 137, 138. b. 9. 126.

Where and what Statutes extend by Equity and Construction to other Actions, or Writ Original, than those mentioned within the Statute, where and what not. B. 1. 57, 123, 131. b. 2. 74. b. 3. 3, 4, 67. b. 4. 4, 10, 40, 43, 44, 46, 93, 95. b. 5. 2 p. 40, 50, 89, 99. b. 6. 4, 20. b. 7. 30, 31. b. 8. 52, 53. b. 9. 12, 40, 78. b. 10. 74, 105. b. 11. 29, 30, 62.

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Where if a Man adds to a Statute, or overdoes what it limits or appoints, all shall be void, or not. B. 3. 33. b. 8. 84. b. 10. 62 and 100.

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Where Prescription shall be good against a Statute, or not. See Tit. *Prescription.*

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Steward of the Court of the Admiralty, and his Authority. See Tit. *Admiralty.*

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Where the Use of the Land shall ensue the Nature of the Land, and descend as the Land should descend at the Common Law. B. 1. 100, 101, 121, 122, 127. b. 2. 57. b. 3. 2. b. 4. 22. b. 6. 34, 43. See Tit. *Uses*, and *Discent*.

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near Heir, and he have a *Subpœna*, &c. See Tit. *Chattel*, *Heir*, *Vest*, and *Devest*.

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Where Amercement shall be of Suitors, or not.

Where Amercement shall be of Suitors, or not. See Tit. *Amercement*.

What shall be sufficient Seisin to make Avowry for Suit to the Court, and where Seisin of Suit shall be Seisin of other Services, and of which. See Tit. *Avowry*, and *Seisin*.

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*Suit to a Mill. Superfedeas. Surplusage. Surrender.*

By Release of all Suits, what is released. See Tit. *Releases*.

*Suit to a Mill.*

Suit to a Mill, by Reason of Tenure, and of what Inhabitants a Man may have Suit to the Mill, because of Tenure, of what not. B. 4. 88. b. 8. 46.

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*Surplusage*

Where Surplusage in a Writ abates it, or not. B. 5. 2 p. 127. b. 7. 40. b. 8. 20. See Tit. *Writ*.

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What Words make a Surrender, what not. B. 2. 66.

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Where Acceptance of a new Estate of the Lessor, or him in Reversion, is a Surrender of the first Interest, or not. B. 2. 17, 20, 24. 61. b. 5. 2 p. 11, 54. b. 6. 69. b. 7. 39. b. 8. 74. b. 10. 53, 67. b. 11. 81.

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Form of pleading a Surrender, and what Agreement is requisite to make it good. B. 8. 144.

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Of the King's Letters Patents, and where, and how, and what is a good Surrender of them, what not. B. 1. 29, 43. b. 6. 55, 66. b. 10. 67.

Where he in Reversion shall hold charged upon a Grant made by Tenant for Life, or Years after Surrender. See Tit. *Charge*, and *Extinguishment*.

Where the particular Estate shall be drowned by Accession of a greater Estate, or not. See Tit. *Estate*.

Of a Copyhold, and what is good, or not. See Tit. *Copyhold*.

Where Rent, or Arrearages are lost and extinct by, or after Surrender, or not. See Tit. *Arrearages*.

Where Custom that the Land of Frank-tenure at the Common Law passes not, but by Surrender in the Lord's Court, is good. See Tit. *Custom*.

*Suspence.*

Where Frank-tenement of Lands, or &c. cannot be in Suspence. B. 1. 130, 134, 137. b. 3. 2, 10, 20. b. 4. 58. See Tit. *Abeysance*.

Where a common Person's Seigniority is suspended by Feoffment, or &c. to the King. B. 1. 37. b. 2. 17. b. 6. 5. See Tit. *King*, and *Extinguishment*.

Where Rent in Fee-simple shall be in Suspence by Unity of Possession, and Seisin of the Land, &c. or not. B. 2. 47, 68. b. 3. 26. b. 6. 39. b. 7. 23. See Tit. *Extinguishment*.

Where Rent reserved upon a Lease for Years, or &c. shall be suspended by entering into the whole, or Parcel of the Land. B. 3. 22, 65. b. 4. 52, 53, 73. b. 7. 23. See Tit. *Apportionment*.

Where Tithes are suspended during Time, the Possession of the Land is in the Parson of the Church, or &c. B. 1. 111. b. 2. 47, 48. b. 11. 10, 14, 15. See Tit. *Tithes*.

Where Debt is suspended by Intermarriage betwixt the Debtor, and Debtee. See Tit. *Baron and Feme*, *Extinguishment*, and *Releases*.

Where Debt is suspended by Administration as Executor to the Debtor, &c. or not. See Tit. *Extinguishment*, and *Executor*.

Where a Condition upon an Estate in Lands shall be suspended by Matter of After-fact. See Tit. *Condition*.

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The King's Prerogative to have Swans, and which he shall have by it, which not. B. 7. 17.

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Custom to have one of the Cygnets of Swans airing in his Grounds, where good. See Tit. *Custom*, and *Prescription*.

**T.**

*Tail.*

**W**HERE and what Grant of the King makes an Estate-Tail, where and what not. B. 1. 43, 46, 49. b. 3. 1. b. 7. 33, 34.

Where and what Grant of a common Person makes an Estate-Tail, and by what Words, where, and what not. B. 1. 43, 46, 49, 103, 104, 114, 140, 157, 175. b. 3. 1. b. 7. 41. b. 8.

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Where an Estate in Tail shall be to a Woman and her Heirs begotten by the Donor, or not. B. 2. 101, 120, 134, 136.

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What Things may be intailed with-

in the Words, or Equity of the Statute. W. 2. c. 1. B. 1. 88, 96, 97. b. 3. 8, 9. b. 4. 22, 23. b. 7. 13, 14, 33, 34, 35. b. 9. 105. See Tit. *Stat. W. 2. c. 1.* there.

Where the King shall be Donee in Tail of a common Person's Gift, and how, &c. B. 1. 27, 40, 44. b. 2. 53. See Tit. *Statutes*, at the End.

Where by Act of the Ancestor, or Trial against him the Issue in Tail is estopped, or not. B. 3. 5. See below.

Where Lands in Tail shall be forfeited for Treasons. See Tit. *Treason*, and *Statutes*, 26 H. 8. c. 13; there.

Where the Issue in Tail shall be bound by the Fine levied by his Ancestor, or by a Stranger, and Non-claim of his Ancestor, or himself. See Tit. *Averment*, and *Continual Claim*.

Where the Issue in Tail shall falsify a Recovery had against his Ancestor, or not. See Tit. *Falsifying Recovery*, and *Stat. W. 2. c. 1.* there, and *Remitter*.

Where Tail is by Devise, and what Words in a Testament make a Devise, what not. See Tit. *Devise*.

Where an Estate Tail created by Condition, or Provision to have Continuance in Perpetuity is good, or not. See Tit. *Statutes*, W. 2. c. 1. there, and Tit. *Perpetuity*.

By Gift in Frank-marriage. See Tit. *Frank-marriage*.

Where Formedon in Discender was at the Common Law, and lay upon a Gift in Tail before the Statute of W. 2. c. 1. See Tit. *Formedon*.

Where Exchange by Tenant in Tail is good, and binds the Issue, or not. See Tit. *Exchange*.

Of Discontinuance of Tail in Possession, Reversion, or of Rent, what it is, what not. See Tit. *Discontinuance*.

Where the Issue in Tail is barred by Affets descended to him, and what are Affets. See Tit. *Affets*, and *Statutes*, W. 2. c. 1. there.

Where the Donor may avow upon the Donce, notwithstanding Discontinuance. See Tit. *Avowry*.

Where Issue in Tail once barred shall be restored to the first Action, by

by Eviction, or Alienation of Affees descended to him, or not. See Tit. *Restore to the first Action.*

Where *Scire facias* lies against the Issue in Tail to have in Value Lands descended to him of late Time. See Tit. *Scire facias.*

Where Usurpation upon Tenant in Tail by Presentation to a Church puts not the Patron out of Possession. See Tit. *Q. Impedit.*

Where and how an Estate-Tail and Fee may stand together at one Time in one Person. See Tit. *Estates.*

How the Fee may be conveyed by Tenant in Tail, where he is Tenant in Tail, the Remainder in Fee to himself. See Tit. *Remainder.*

Where the Bastard's dying seized of Land in Tail binds the Issue in Tail, or not. See Tit. *Bastardy.*

Where Grant of the Reversion by Tenant in Tail, or the Reversion of the Tenant in Tail is good, or not. See Tit. *Grand Attornment.*

Where the Heir in Tail shall be in Ward, and to whom, and where he shall be in Ward, notwithstanding Discontinuance made by the Ancestor. See Tit. *Ward.*

Where a Gift, or Sale of Trees growing upon the Land, by Tenant in Tail binds the Issue after his Death, or not. See Tit. *Gift, and Wood.*

Where Resceit shall be granted upon Default of the Tenant in Tail, or not. See Tit. *Resceit.*

Where Attornment by Tenant in Tail is good. See Tit. *Attornment.*

Where and what Deeds belong to the Issue in Tail, and for which he shall have Detinue. See Tit. *Detinue, and Charters.*

Where Acceptance of Rent by the Heir in Tail, reserved upon his Ancestor's Lease, makes it good, or not. See Tit. *Acceptance, and Leases.*

Tenure by the Donee, and of whom he shall hold, and by what Services where no Tenure is expressed. See Tit. *Tenure.*

Where an Estate-Tail shall be by the Gift of Lands, or &c. without the Word Heirs. See Tit. *Estates.*

Of Copyhold. See Tit. *Copyhold, and Statutes, W. 2. c. 1.*

Where a *Que estate* may be pleaded of an Estate-Tail, without Averment of Life, &c. or not. See Tit. *Que estate, and Pleadings.*

Tail after Possibility.

Not punishable for Waste. B. 6. 41. b. 9. 139. b. 11. 80, 81. See Tit. *Waste.* Shall not have Aid. B. 11. 80. See Tit. *Aid.*

Shall not be compelled to attorn. See Tit. *Attornment.* B. 11. 80.

Writ of *Consimili casu* lies not upon his Alienation. B. 11. 80. See Tit. *Entry, Writ, and Consimili casu.*

Writ of Intrusion lies not after his Death. See Tit. *Intrusion.*

He may join Demise in a Writ of Right. See Tit. *Right.*

His Assignee must attorn. B. 11. 83.

He shall not be named Tenant for Life in a Writ, or Pleading for an Estate for Life, shall not include his Estate. B. 11. 80.

Where Alienation in Fee forfeits his Estate, and he in Reversion shall enter for Forfeiture. B. 11. 80. See Tit. *Forfeiture.*

Extinct and drowned upon Discent, or Accession of the Fee. B. 11. 80. See Tit. *Estates.*

Where he in Reversion shall be received upon his default. See Tit. *Resceit, and Stat. W. 2. c. 3. there.*

Where Exchange by him, and Tenant for Life, is good. See Tit. *Exchange.* B. 11. 81.

Tales.

How the *Venire facias* of the Tales shall be awarded, and how many shall be of them. B. 10. 104, 105. See Tit. *Enquest.*

The Inquest shall be taken of the Tales where the *Venire facias* and principal Panel upon it are quashed. B. 10. 104, 105. See Tit. *Enquest.*

Where a *Tales* shall be *De circumstant.* or not. See Tit. *Furors, and Stat. 35 H. c. 6. there,*

How

How the Trial shall be of Challenges to the Array, or Polls returned upon the *Tales*. See Tit. *Furors*.

Where *Venire facias* of *Tales* shall be directed to the Coroners. See Tit. *Coroners*.

Temps.

Where Damages shall be recovered in a Writ of Entry upon Disseisin; and from what Time every Tenant shall answer for his Time. B. 10. 117. See Tit. *Damages*, and *Statutes*, there *Gloucester*, c. 1.

Where Damages shall be recovered to the Time of Judgment, and in what Actions. B. 10. 117. See Tit. *Damages*. b. 7. 29.

From, and for what Time shall the Plaintiff in a Writ of Annuity recover his Arrearages. B. 7. 11. See Tit. *Arrearages*.

Where the Plaintiff shall recover the Issues and Profits of his Land and Arrearages incurred hanging the Writ. B. 7. 29. b. 10. 117. See Tit. *Arrearages*.

From what Time Damages shall be recovered in a Writ purchased by Journeys Accounts. B. 6. 10. See Tit. *Damages*, and *Fournies Accounts*.

Within what Time the Writ by Journeys Accounts ought to be brought. B. 6. 11. See Tit. *Fournies Accounts*.

What Damages shall be recovered in Affize of Mortdancester, and from what Time. B. 10. 117. See Tit. *Damages*, and *Stat. Glouc.* c. 1.

Where and from what Time Damages shall be, &c. in Replevy, or Detinue, for detaining a Distress after Amends tendred. B. 5. 2 p. 76. b. 8. 147. See Tit. *Damages*, *Distress*, *Tender* and *Refusal*.

Where the Plaintiff in *Q. Impedit* shall recover Damages, and from what Time. B. 5. 2 p. 58, 59. b. 6. 48, 49, 51. b. 10. 116. See Tit. *Q. Impedit*.

What Damages shall be recovered in a Writ of Ail, Besail, and Coufnage, and from what Time. B. 11. 5. See Tit. *Ail*, *Statutes*, *Glouc.* c. 1. there.

What Damages shall be recovered

in a Writ of Ravishment of Ward; and for what Time. B. 9. 72, 73. See Tit. *Ward*, and *Statutes*, W. 2. c. 39: Exposition of the Words (Six Months Time.) B. 6. 50, 62. See Tit. *Exposition*, *Statutes*, and W. 2. c. 5. there.

Where Uses of Lands shall be declared and directed by Indentures bearing Date before, tho' the Assurance subsequent vary in Time, or &c. B. 1. 99, 100, 105. b. 2. 71, 74 to 78. b. 3. 83. b. 5. 2 p. 26. b. 9. 9 to 11 and 15. See Tit. *Uses*.

Where Bar in Formedon shall be for a certain Time. B. 10. 38. See Tit. *Restored to the first Action*.

Where a Man shall have two several Writs hanging at the same Time, and for the same Matter, where nota. B. 5. 2 p. 47, 48, 51. See Tit. *Writ*.

Where an Inditement taken in the Time of one King, shall stand in the Time of another King, and the Party be arraigned upon it. B. 7. 31. See Tit. *Inditement*, *Writ*, and *Crown*.

Where the Heir shall have the Wardship fallen in the Time of the Ancestor, and not the Executor, or contrary. B. 2. 93. See Tit. *Ward*.

Exposition of the Words (*ad presens*) and where the present Time, preterperfect, and future Time shall be taken one for another. B. 10. 67. See Tit. *Exposition*.

Where a Grant by him who has Two Estates in him at the Time, &c. is good, and how it shall take Effect. B. 1. 42, 45, 46. b. 2. 51, 52, 53. b. 3. 84. See Tit. *Grants*, and *Estates*.

Where a Grant, Lease, or &c. shall be avoided for a certain Time, and after stand in Force. B. 1. 85, 86. b. 2. 52. b. 6. 40. b. 8. 17, 72. b. 9. 140. b. 10. 41.

Where a Condition reserving a Re-entry for a certain Time shall be good, &c. B. 2. 52. b. 10. 41. See Tit. *Condition*.

Where the Heir shall not have *Cessavit* of the Cessing in the Time of his Ancestor. B. 8. 118. See Tit. *Cessavit*.

Where Judgment shall be good, and stand, notwithstanding the Tenant,



nant, or Defendant was dead at the Time of it. B. 1. 103, 106. See Tit. *Judgment*, and *Falsifying of Recovery*.

Where a Lease for Years, or *&c.* for a certain Time upon Contingency is good. B. 4. 30, 82. See Tit. *Estates*.

How a Condition upon a Bond, or *&c.* shall be performed, no Time being expressed for the Performance of it, and when it shall be performed. B. 1. 25. b. 2. 3, 79. b. 6. 30, 31. b. 7. 15. b. 8. 91. See Tit. *Condition*.

Where a fit Time shall be allowed for the Performance of a Condition, after Notice given, and Request made, and what Time shall be said Time fit and reasonable. B. 1. 22, 25. b. 2. 3. b. 3. 28, 34. b. 6. 31. See Tit. *Condition*.

Within what Time Appeals are to begin. B. 4. 42. b. 5. 2 p. 107. b. 7. 30. See Tit. *Appeals*, and *Statutes*, 3 H. 7. c. 1.

Where one shall be charged for Nuisance done in the Time of another; and Nuisance done in the Time of one shall be redressed by another, and how. B. 5. 2 p. 101. b. 9. 55. See Tit. *Nuisance*.

Where by the King's Prerogative no Negligence shall be imputed to him, and no Time shall prejudice him, and where contrary. B. 4. 23. 127. b. 6. 29. b. 7. 30. See Tit. *Prerogative*.

Where Feoffment of Land, and Livery and Seisin upon it is void by Presence of others at the Time of the Livery, or not. B. 2. 23, 31, 32. b. 5. 2 p. 113, 124. b. 6. 69. See Tit. *Feoffments*.

Where a *Quod permittat* shall be maintainable for Wrong, or Nuisance done in another Time than in the Time of him who brings the Action, or him against whom the Action was brought. B. 5. 2 p. 101. b. 9. 54, 55. See Tit. *Nuisance*, and *Quod permittat*.

Within what Time Reattachment must be sued. B. 7. 30. See Tit. *Reattachment*.

How these Words (*Quondam, nuper, tunc, nunc, adtunc, extunc*) shall have Relation, and the Exposition of

those and other Words of Relation. See Tit. *Relation*.

Of Computation of Time in Cases. See Tit. *Computation*.

Of Forfeiture of Issues, and Profits of Lands, and from what Time they shall be answered to the King. See Tit. *Issues of Lands*.

Of the Time of the Vacation of a Vicarage, Parsonage, Bishoprick, or *&c.* See Tit. *Vacation*.

Of Time of Limitation. See Tit. *Limitation*.

Of Time of fresh Suit. See Tit. *Fresh Suit*.

Of Forfeiture of Land to the King for Felony, or *&c.* for Year, Day, and Waste, and where he shall have it, and how the Year shall be accounted. See Tit. *Forfeiture*.

Time and Age of the Heir Male or Female to be in Ward. See Tit. *Ward*.

Of Time to make Claim, *&c.* See Tit. *Continual Claim*.

Where and from what Time Lands shall be liable to Recovery in Value. See Tit. *Recovery in Value*.

Of Things suspended for a certain Time, and after revived. See Tit. *Suspension, and Revivor*.

Where may be avoided, because beyond Sea at the Time, *&c.* See Tit. *Utlary*.

Where upon *Audita querela* the Plaintiff shall be restored to Issues and Profits taken in the mean Time, *&c.* See Tit. *Audita querela, Issues, and Profits of Lands*.

Of Restitution by Act of Parliament, and how, and to what Time such Restitution shall have Relation. See Tit. *Parliament, and Repeal*.

Of Restitution to him who reverses a Judgment by Writ of Error, and from what Time, *&c.* See Tit. *Error*.

Of the Time for Inrolment of Bargain and Sales for Lands. See Tit. *Inrolment, and Computation*.

Of the Time to hold Leets, or the Sheriff's Turn, and within what Time they must be held. See Tit. *Leets, and Turn of the Sheriff*.

*Temporalties. Tenants in Common. Tenant at Will and Sufferance.*

Of Reputation, and what Time is sufficient to make it. See Tit. *Reputation.*

To pray Clergy, and when it must be prayed, when not. See Tit. *Clergy.*

Where and what Statutes by Equity extend to another Time, &c. See Tit. *Statutes.*

Where Tenure shall be for a certain Time by one Manner of Service, another Time by another. See Tit. *Reservation.*

Where Infranchisement of a Villein or Nief is for a certain Time by Inter-marriage, and where for ever. See Tit. *Enfranchisement.*

Capacity of a Man not in Being at the Time of the Estate in Use, or &c. limited, &c. and when he shall take an Estate. See Tit. *Capacity.*

Where an Estate in Fee simple may be limited upon another Estate in Fee, and so Two Fees be at a Time, or not. See Tit. *Estate.*

Where an Estoppel is but for a certain Time. See Tit. *Estoppel.*

Where a Recovery shall be falsified, because he against whom it was had, was not Tenant of the Frank-tenement at the Time of Recovery. See Tit. *Falsifying of Recovery.*

Where and what bars in *Quid juris clamat*, to oust the Plaintiff of Attornment for a certain Time. See Tit. *Quid juris clamat*, and *Attornment.*

How Execution shall be upon a Statute Merchant, or &c. where the Lands are in Execution upon a late Statute, or Recovery of late Time.

Where Judgment shall be of Parcel at one Time, and of the Residue at another, or double Judgments in one Action. See Tit. *Judgment.*

Where the Lord shall have the Wardship of the Heir of his Tenant, notwithstanding the Lordship was suspended at the Time of the Death of his Tenant, or not. See Tit. *Ward.*

*Temporalties.*

Who shall be said Founder of an Abbey, or Priory, and have the Tem-

poralties in Time of Vacation. See Tit. *Abbot and Prior.*

Where the King shall have the Temporalties of a Bishop, during the Vacation of the Bishoprick; his Prerogative because of it. See Tit. *Prerogative*, and *Presentment to a Church.*

Where a Bishop's Temporalties shall be seized into the King's Hands, because of Contempt, &c. See Tit. *Contempt.*

*Tenants in Common.* See Tit. *Joint Tenants.*

*Tenant at Will and Sufferance.*

Where a Man shall be Tenant at Will, and what is a Lease at Will, where and what not. B. 2. 24, 55, 59, b. 6. 26, 35. b. 8. 17, 21.

Where a Man shall be Tenant at Sufferance. B. 4. 24.

Where Tenant at Will, or a Copyholder shall have Aid. B. 4. 21, 22. See Tit. *Aid.*

What Remedy or Action the Lessee for shall have against the Lessee at Will, if he cuts Wood, or does Waste in Houses. B. 5. 2 p. 13, 14. See Tit. *Action of the Case.*

Where a Lease at Will shall determine, by what Act, what not. B. 5. 2 p. 10, 13, 116. b. 10. 59. b. 8. 75.

Where Lessee at Will or Sufferance shall have the Emblements. See Tit. *Emblement.*

Where the Lessor shall have Action of Trespass general against his Lessee at Will. See Tit. *Trespass.*

Where Seisin of Services, or Rent, &c. from the Tenant at Will, or by his Hands shall be a sufficient Seisin to the Lessor, or &c. See Tit. *Seisin.*

Where he that has but an Estate at Will, may grant for Life, or Years, and good. See Tit. *Extinguishment, Estates, Offices, and Copyhold.*

Where Presentation to a Church by Tenant at Will serves for the Lessor, and vests the Possession in him. See Tit. *Q. Impedit.*

Where Action of the Case lies upon Menace of the Tenants at Will, upon which

## Tender and Refusal.

which they depart, &c. See Tit. *Action of the Case*.

Bar in Debt against the Lessee at Will, and what is good. See Tit. *Debt*.

For Fealty. See Tit. *Homage*, and *Fealty*.

By Copy of Court-Roll. See Tit. *Copyhold*.

Where Tenant at Will is a Disseisor, and by what Act. See Tit. *Disseisin*.

Where a Lease at Will is not sufficient for a Fee upon Contingency to grow upon it. See Tit. *Condition*.

## Tender and Refusal.

Where Notice to the Lord to make him change his Avowry, is not sufficient without Tender of the Arrearages. B. 3. 23, 24, 30, 35, 66. b. 5. 2 p. 57, 58. b. 6. 57, 58. See Tit. *Avowry*.

Of Arrearages in *Cessavit*, how, when, and to whom they shall be tendered, &c. B. 8. 118. See Tit. *Arrearages*, and *Statutes, Glouc. c. 4* there.

Where Tender and Refusal of Marriage is material in a Writ of Value of Marriage, or Forfeiture of Marriage. B. 4. 82. b. 5. 2 p. 58, 127. b. 7. 3, 119. b. 8. 70, 75. See Tit. *Action upon Statutes*, and *Stat. Mert. c. 7*.

Where a Condition is performed by Tenant and Refusal, &c. and what shall be good and sufficient Tender, what not. B. 5. 2 p. 114. b. 6. 79. See Tit. *Condition*.

Where Tender of Amends bars in Replevy, and what is good and sufficient Tender. B. 5. 2 p. 76. b. 8. 147. See Tit. *Damages*, and *Replevy*.

Where the Mesne by Tender, and putting his Beasts in the Pound, shall discharge himself against the Plaintiff in a Writ of Mesne. B. 9. 21, 22, 110, 111. See Tit. *Mesne*.

Where the King shall have Prerogative that he need not demand Rent reserved upon a Condition of Re-entry for not paying, but the Lessor must tender it. B. 4. 73. b. 7. 2 p. 56. See Tit. *Prerogative*, and *Demand*.

Where Refusal and Denying to pay

Rent is Disseisin. B. 7. 29. See Tit. *Disseisin*.

Where Issue shall be joined upon Tender, and where upon Refusal, and the one, or other be traversed at Election. B. 2. 45. b. 5. 2 p. 57, 58, 114, 127, and 25. b. 6. 70. b. 7. 28.

Where a Condition or Covenant shall be performed by Agreement, notwithstanding Refusal before, or not. B. 2. 69. See Tit. *Condition*, and *Agreement*.

Where upon pleading Tender and Refusal the Party ought to plead at all Times ready, or not. See Tit. *Touts temps prest*.

Of Homage, and where the Lord shall not have it after Tender and Refusal without a new Request. See Tit. *Homage*.

Where Damages are recoverable for detaining Beasts after Tender of Amends, &c. See Tit. *Damages*.

Where a Bishop shall be a Disturber upon Refusal of a Clerk presented to him by the Patron, or not. See Tit. *Quare impedit*, and *Quare non admittit*.

To whom Tender, or Payment of Monies shall be made, upon Condition of Redemption of Lands to pay Monies to him, his Heirs, Executors, or Assignes. See Tit. *Condition*.

Where Tender and Payment of Monies shall be always directed and accounted according to the Intent of him that pays them, not of him that receives them.

Where if one Party offers to demur, the other cannot refuse to join. See Tit. *Demurrer*.

Where Refusal by an Executor to prove the Testament before the Ordinary is not material, but he may administer, or bring an Action after. See Tit. *Executors*.

Where it is in the Court's Discretion to admit an Officer upon the King's Grant of an Office, or refuse him. See Tit. *Office*, and *Officers*.

Where Tender of Amends for Damage-feasant made to a Bailly, is not sufficient. See Tit. *Bailly*.

Where

Where Tender of Arrearages to the Bailly is not sufficient Notice to the Lord to make him change his Avowry. See Tit. *Bailly*.

Tenure.

What shall be said Tenure of the King in Chief, what not. B. 2. 81. b. 6. 6, 7. b. 7. 8, 12. b. 9. 123, 131. See Tit. *Statutes, Magna charta, c. 51.*

1 E. 3. c. 13. there, and 2 E. 6. What shall be said Tenure of the King in Chief by Knights Service, and what by Socage. B. 6. 6, 7. b. 9. 123, 130, 131. See Tit. *Statutes*, and there 2 E. 6. c. 8. the Books there.

What is Tenure by grand Serjeanty. B. 2. 8. See Tit. *Grand Serjeanty*. B. 6. 74.

Where the King cannot hold of any other, nor of himself. B. 1. 47. b. 2. 15. b. 6. 5, 6.

Where the King may, and where he ought to give Land to be held of another than himself. B. 6. 6. See Tit. *Stat. Prerogative, c. 2.*

Exposition of the Words in the King's Grant (to be held of us, &c. and of other the Lords of that Fee by the Services therefore due and accustomed.) B. 6. 5 and 6. See Tit. *Exposition*.

Where the King gives Land to be held without reserving any Thing, how it shall be construed, and how the Tenant shall hold. B. 6. 6. b. 9. 123.

Upon Feoffment in Fee before the Statute of *Westm.* the 2d, c. 1. or upon a Gift in Tail after the Statute; how, and by what Services the Tenant shall hold. B. 2. 92. b. 6. 6. b. 6. 3, 8.

Exposition of the Words (rending certain Rent for all Services, &c. and doing to the chief Lords the Services due, and of Right accustomed, or to be held of the chief Lords) how the Tenant shall be. B. 6. 6, twice. b. 9. 123, 131.

Where a Man shall be Tenant of Land, and hold it of no one. B. 9. 123 above, and *Extinguishment, b. 2. 93.*

Where Issuc shall be taken upon the Tenure, and that be traverfable, or not; and in what Actions, what not. B. 4. 11. b. 9. 20, 33, 35. b. 10. 119. See Tit. *Avowry, Rescous, Traverse and Traversable, Cessavit, and Escheat*.

By Escuage. See Tit. *Escuage*.

Where a Man shall hold by Knights Service, and yet not pay Escuage. See Tit. *Escuage*.

By Homage and Fealty. See Tit. *Homage, and Fealty*.

Where Tenures of other Lords shall be extinguished by the King's Seisin, and where their Tenures shall be after revived, or not. See Tit. *Extinguishment, Distress, and Revivor*.

Where a common Person cannot make another to hold of a Stranger, nor of any but himself. See Tit. *Reservations*.

Where Tenure shall be by Castle-guard, &c. See Tit. *Escuage*.

In Frank-almoigne. See Tit. *Frank-almoigne*.

In Frank-marriage. See Tit. *Frank-marriage*.

Where Lands in Two Counties may be held by one Joint-service. See Tit. *Affize, and Rent*.

Where Tenure shall be according to the special Reservation of the Parry, and not according to the general Intendment of the Law. See Tit. *Reservation*.

Where Tenure shall be in the Disjunctive upon such Tenure, or for one Rent, or other. See Tit. *Reservation*.

Where Tenant for Term of Life shall hold by Knights Service. See Tit. *Escuage*.

Where Tenure shall be for a certain Time by one Kind of Service, and for another Time by another. See Tit. *Reservation*.

Of Tenant by Dower, of whom she holds, and by what Services. See Tit. *Dower*.

Of Tenant by Courtesy, and of whom he holds. See Tit. *Courtesy*.

By Castle-Guard, and what Manner of Tenure it is. B. 4. 86, 87. See Tit. *Esuage*.

Where the Tenures are several, notwithstanding a Joint Demise. B. 4. 27. b. 6. 6.

For Suit to a Mill. B. 4. 88. See Tit. *Suit*.

By covering the Lord's Hall. B. 4. 86. b. 6. 2. See Tit. *Reservations*, and below.

Where one and the same Land shall be held by several Tenures. B. 3. 34. See Tit. *Reservations*.

Where Tenure shall be for a Particle. See Tit. *Statutes*, W. 3. there, and *Apportionment*, and *Extinguishment*.

Of Gavelkind, and what Tenure it is, and where by Knights Service, where by Socage. See Tit. *Gavelkind*.

Form of pleading Tenure by Knights Service, or in Socage. See Tit. *Pleadings*.

Where Protestation shall be taken of the Tenure. See Tit. *Protestation*.

Where the Lord by his Confirmation may abridge the Tenure, not create a new Tenure. See Tit. *Confirmation*.

What Services, Works, or Things may be reserved to make a Tenure, what not. B. 4. 86. b. 6. 2.

Where the Seigniorship shall be changed by Release of the Seigniorship, and a new Tenure created, or not. See Tit. *Releases*.

Where the Seigniorship and Tenure shall be extinct by Unity of Possession of the Tenancy and Seigniorship in a common Person. See Tit. *Extinguishment*, *Apportionment*, and *Statutes*, W. 3. there.

By Priority and Posteriority, &c. Tit. *Ward*, and *Priority*.

Where a Man may have a Writ upon several Tenures, and join them, or not. See Tit. *Writs*, and *Ward*.

Where the Mesnalty shall be extinct by Purchase, or &c. of the Seigniorship by the Tenant, or of the Tenancy by the Lord, and how, and by what Services the Tenant shall hold after. See Tit. *Extinguishment*, and *Mesne*.

Where and what Statutes extend by Construction and Equity to another Manner of Tenure.

Testament.

Who may make Testaments, who not. B. 4. 61. b. 5. 2 p. 73. b. 6. 23. b. 8. 144. See Tit. *Statutes*, and there 34 H. 8. c. 5. *Baron and Feme*, *Enfant*, *Idiot*, and *Devise*.

Where and what is a sufficient Testament to pass Lands, what not. B. 3. 31. See Tit. *Statutes*, and there 32 H. 8. c. 1. of Wills, and the Books there.

Where Probate of Testament is material, and before what Ordinary it shall be proved, and where before another Person than the Ordinary. B. 5. 16. 2 p. 28, twice, and 73. b. 9. 37, 38, 41, 48.

Where Estoppel shall be by Testament, or Letters of Administration, where not. B. 9. 32, 40, 41.

Where a Testament shall be traversed, or Letters of Administration denied, and how the Probate, &c. shall be tried. B. 9. 31, 40, 41.

Where a Testament may be changed and altered by the Testator, and what Act is a Countermand or Revocation of it, what not. B. 4. 61. b. 8. 90, 93.

Where in antient Times Lords of Manors had the Probate of Testaments within their Manors. B. 9. 37, 38, 41, 48.

Where an Executor shall not have an Action before Probate of the Testament. See Tit. *Executors*.

Where Probate of a Testament by one Executor is good, and shall serve for all, and where they may administer, &c. notwithstanding they have refused, &c. See Tit. *Executors*.

Where the Executor ought to shew the Testament, and where he ought not to shew it. See Tit. *Monstrance of Deeds*.

Where a Testament shall be void in Part, and where in the whole. See Tit. *Devise*, twice.

Things in Action.

Where and what Things in Action, Right to Lands or Goods shall be forfeited to the King by Attainder by Utlary, or &c. what not. B. 3, 2, 3, 11, 35. b. 4. 93, 95. b. 5. 2 p. 49, 50, 56, 90. b. 7. 13, 21, 22, 34. b. 11. 12.

Where and what Thing in Action the King may grant over, and how the Grantee shall sue to recover it, what not. B. 3. 1, 3, 4, 5, 9, 11. b. 11. 12.

Where and what Thing in Action may be granted over by a common Person, where and what not. B. 2. 56. b. 3. 4. b. 4. 66. b. 5. 2 p. 25. b. 6. 50. b. 10. 47, 48. See Tit. *Annuity*.

Where a Thing in Action granted to the King shall be good. B. 5. 2 p. 89, 90.

Where a Thing in Action shall be extinguished, or suspended by Executorship, or Administration. B. 8. 136. See Tit. *Extinguishment*.

Where a Thing in Action shall be extinguished, or suspended by Inter-marriage of the Obligor, or Obligee, or not. See Tit. *Baron and Feme*, and *Extinguishment*.

Where a Thing in Action suspended shall be another Time revived, or not. See Tit. *Suspence*, and *Reviving*, and *Restoring to the first Action*.

Where an Executor may retain the Goods of the Dead, to satisfy his own Debt, and so recoup the Thing in Action. See Tit. *Assets*, and *Executor*.

Where and what Things in Action the Executors shall have after the Death of their Testator. See Tit. *Executors*, and *Chattels*, and *Arrearages*.

Where and what Things in Action the Heir shall have after the Death of the Ancestor. See Tit. *Heir*, and *Chattels*.

Where the Successor of a Body Corporate shall have Things in Action after the Death of his Predecessor, or not. See Tit. *Abbot*, or *Corporation*.

Things vest and devest. See Tit. *Chattels*.

Tillage and Husbandry.

The Statutes of Tillage, and Exposition of them. 4 H. 7. c. 19. 7 H. 8. c. 1. 5 E. 6. c. 5. 2 & 3 P. & M. c. 2. 5 El. c. 2. 35 El. c. 7. 39 El. c. 1. b. 4. 39. See Tit. *Stat.* 4 H. 7. c. 19. there.

Time. See Tit. *Temps*.

Title.

The Definition, or Description of a Title. B. 8. 154.

Where the Court shall inquire of the Title at large. B. 8. 133.

Where the Tenant shall pray the Affize upon the Title, and it shall be awarded upon it. B. 8. 153. See Tit. *Affize*. b. 11. 40.

Where in Affize the Title shall be made in the Plaintiff. B. 6. 56. b. 8. 46. See Tit. *Affize*, and *Plaint*.

Where the Defendant in *Q. Impedit* shall not have a Writ to the Bishop without Title made. B. 7. 27. See Tit. *Writ to the Bishop*.

Prescription, and what is good, what not. See Tit. *Prescription*.

Against Fines, and what is good, what not. See Tit. *Averment*, and *Continual Claim*.

Against Recoveries, and what is good, what not. See Tit. *Falsifying of Recovery*, *Affurance*, and *Remitter*.

To Commons, and what is good, what not. See Tit. *Common*.

To Offices, and what is good, what not. See Tit. *Affize*, and *Corody*.

To Estovers, and what is good, what not. See Tit. *Affize*, and *Common*.

To Toll, and what is good, what not. See Tit. *Affize*, and *Toll*.

Where in making Title under a particular Estate, the Life of him by whom, &c. ought to be averred. See Tit. *Pleadings*.

Tithes.

Where and who shall pay Tithes, and what

what Manner of Tithes shall be paid, what not. B. 1. 111. b. 2. 44, 49. b. 11. 10, 14.

Where and of what Things Tithes shall be paid, of what not. B. 11, 48, 49, 81. See Tit. *Consultation*, and *Attachment upon Prohibition*.

To whom Tithes are to be paid at this Day by Church Canons; to whom they were paid in ancient Time, and in what Manner. B. 2. 44. b. 11. 14.

Where Tithes shall and may be claimed by Prescription. or not. B. 2. 44, 45.

Where a Man shall be discharged of Tithes by Composition, or Prescription. B. 2. 38, 44, 46, 47. b. 6. 6. See Tit. *Prescription*.

Where the King shall have Tithes, and of what Lands and Persons. B. 2. 44. b. 5. 11.

Where a Man shall have Tithes against his own Feoffment, or Lease. B. 1. 111. b. 2. 49.

Where and how Tithes may be proclaimed as appendant to a Manor, or not. B. 2. 45.

Where Tithes shall be extinguished by Unity of Possession of the Land, &c. or not. B. 1. 111. b. 2. 47, 48, 49. b. 11. 10, 14, 15. See Tit. *Statutes*, 31 H. 8. c. 13.

Where the spiritual Court shall have Jurisdiction upon Suit in Court-Christian for Tithes, and betwixt what Persons, betwixt what not. B. 2. 44, 47, 48. b. 4. 75. b. 5. 9, 13, 15, 16. b. 7. 44. b. 11. 8, 9, 16. See Tit. *Consultation*, and *Attachment upon Prohibition*, *Jurisdiction*, and *Prohibition*.

Where Assize, or *Præcipe quod reddat* lies, and is maintainable of Tithes See Tit. *Assize*, and *Demonstration*.

Where *ejectione firmæ* lies of Tithes. See Tit. *Ejectione firmæ*.

Where Consultation shall be granted upon Suit in Court-Christian for Tithes; betwixt whom, and whom not. See Tit. *Consultation*, and *Attachment upon Prohibition*, *Jurisdiction*, and *Prohibition*.

Where Attachment upon Prohibition lies, and is to be granted upon Suit in Court spiritual for Tithes of

Trees. See Tit. *Attachment upon Prohibition*.

Where the Pope cannot grant that a Man shall be discharged of Tithes for Lands, or &c. in England. See Tit. *Pope*.

Derivation of Obvention, B. 11. 16.

*Toll.*

Where Assize lies of Toll. B. 8. 46. See Tit. *Statutes*, W. 2. c. 25. there, and *Assize*.

Action of the Case lies for taking Toll where he ought not, or more than he ought. B. 4. 94. See Tit. *Action of the Case*.

Discharge by the King's Grant, and where, and what is good. B. 5. 2 p. 63.

Where a general Writ of Trespass lies for taking of Toll. B. 4. 94.

Where Property of Goods sold in a Market is not charged without paying Toll. See Tit. *Contract*.

*Tolt.*

Where it lies, and the Form of the Precept. B. 4. 33. See Tit. *Recordare*.

*Turn.*

What Things are inquirable in the Sheriff's Turn, what not. B. 6. 20.

At what Time the Sheriff's Turn shall be kept, and how oft in the Year. B. 10. 76. See Tit. *Statute*, and there 31 E. 3. c. 14.

Who is Judge in the Sheriff's Turn. B. 6. 12.

Where and what Inquisitions, or Presentment taken in the Sheriff's Turn, shall be delivered to the Justices of Peace, and how they shall proceed upon them. B. 5. 2 p. 112. b. 9. 26.

At what Place the Sheriff's Turn shall be held. See Tit. *Stat. Mag. chart.* c. 35. and *Leets*.

*Touts temps prest.*

Where the Party who is to perform a Condition, ought to be always ready

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dy to perform it, tho' the Time be past, and at all Times ready at the Day and Place, is sufficient, &c. B. 5. 2 p. 114. b. 9. 79. See Tit. *Condition.*

Where a Man in Debt upon Tender and Refusal needs in pleading to say, At all Times ready. B. 9. 79.

Where and for whom it shall be a good Plea in Dower, to say that he is at all Times ready to render Dower, if the Demandant will deliver the Charters, &c. and for whom not. See Tit. *Dower.*

*Town. See Tit. Vill.*

*Traverse to an Office found before the Escheator.*

Where a Man shall not have Traverse, &c. unless another Office be found for him, or his Title be found by the same Office, and where contrary. B. 4. 55 o 59. b. 7. 44, 45. See Tit. *Statutes.* 2 E. 6. c. 8. there, and *Office before the Escheator.*

Where and when Traverse shall be tendred, and where Remedy is by Way of Traverse, or not. B. 4. 56, 57.

Where Office shall be traversed in the Court of Chancery, Common Bench, or elsewhere, &c. B. 1. 157, 162. b. 4. 56. b. 7. 16, 17. b. 9. 96, 98, 100. See Tit. *Office before, &c.*

Where a Man shall not traverse an Office, nor avoid it by Traverse, but shall be put to his Petition. B. 4. 56, 59. See Tit. *Petition.*

Where an Office may be traversed, the King being intitled by Record, or not. B. 4. 59. See Tit. *Petition.*

Where an Office for Goods and Chartels may be traversed. B. 4. 56. See Tit. *Statutes,* 26 E. 3. c. 13. there, and *Petition.*

Where an Office may be avoided by Pleading, without Traverse tendred to it, as well for Land, as for Goods and Chartels. B. 4. 56.

Out of what Court Process shall be awarded to try the Issue joined upon Traverse, tendred in the Court of Chancery, and how, and in what

Court it shall be tried. B. 1. 162. b. 5. 2 p. 92. See Tit. *Process.*

Where Traverse to an Office found for the Party against the King shall bind him, and contrary for the King. B. 7. 45. b. 8. 168.

Where a Man upon Traverse tendred to an Office shall have the Lands to Ferm, how, and when. B. 11. 64. See Tit. *Statutes,* and there 8 H. 6. 16. 1 H. 8. c. 10.

Where Entry may be upon the King's Possession without Traverse, Petition, or other Process. See Tit. *Entry congeable.*

Where upon Traverse tendred, *Scire facias* ought to be awarded against the Patentee, Committee, or Grantee, or not; but Entry may be upon him. See Tit. *Scire facias, Repeal,* and *Entry congeable.*

What Process shall be awarded upon Traverse to an Office, or Presentment, and when it shall be awarded. See Tit. *Process.*

Where he that tenders Traverse, and is found for him, shall have Restitution with the Issues, and from what Time. See Tit. *Livery.*

Where the King by his Prerogative may waive the Issue joined upon Traverse tendred, and demur, or &c. See Tit. *Prerogative.*

*Traverse and Traversable.*

Where the Defendant in Action of Case shall take Traverse to the Point of the Writ, where he shall plead in Bar, or not; and what is a good Traverse and Issue in this Action, what not. B. 4. 18. See Tit. *Action of the Case.*

Where in Action of Account the Defendant upon Plea in Bar ought to take Traverse to the Supposal of the Writ, and what Kind of Traverse is good, or not. B. 11. 91. See Tit. *Account.*

Where in Attachment upon Prohibition upon Plea in Bar, Traverse may be, and what Kind of Traverse. B. 2. 41, 42. b. 11. 8, 9. See Tit. *Attachment upon Prohibition.*

Where



Where Seisin of Services alledged in Avowry shall be traversed, and by whom, or not. B. 4. 12. b. 8. 65. b. 9. 33 to 36. b. 10. 107, 108. See Tit. *Avowry*.

Where Tenure shall be traversed in Avowry; by whom, and by whom not. B. 9. 20, 33, 35. See Tit. *Avowry*, and *Stat. 21 H. 8. c. 19*.

Where a Stranger to the Avowry shall traverse to the special Matter alledged in the Avowry, or not. B. 9. 20, 21, 22, 36. See Tit. *Avowry*.

What Matter shall be traversed in *Q. Impedit*, what not. B. 9. 9, 10. b. 5. 2 p. 98. b. 10. 54. See Tit. *Q. Impedit*, and *Issues joined*.

What Traverse shall be taken in *Cessavit*, and where the Seisin of Services, or Quantity of them is not traversable in this Action. B. 4. 11. b. 5. 2 p. 100. b. 9. 34. See Tit. *Cessavit*.

What Traverse is good in a Writ of Rescous; and what Matter traversable in it, what not. B. 4. 11. b. 9. 22, 23, 24. See Tit. *Seisin*, and *Tenure*.

Where the Defendant in Mortdancer upon Plea in Bar shall take Traverse, and what Kind of Traverse. B. 4. 43. b. 6. 8. See Tit. *Mortdancer*.

Where Accord shall be traversable, and Issue taken upon it. See Tit. *Accord*.

Where Letters of Administration shall be traversed, and what Traverse taken to them. See Tit. *Administration*.

Where Assent, or Agreement shall be traversed, and Issue taken upon it, or not. See Tit. *Surrender*.

Where in Action brought by, or against Executors, the Defendant shall take Traverse, and what Kind of Traverse. See Tit. *Executors*.

Where Commandment shall be traversed, and Issue taken upon it, or not. See Tit. *Commandment*.

Where Contempt is not traversable in Attachment upon Prohibition. See Tit. *Contempt*, and *Attachment upon Prohibition*.

Where the Cause of Arrest, and

Suit in a base Court returned upon *Corpus cum causa*, is not traversable. See Tit. *Corpus cum causa*.

Where Surplusage alledged in Pleading shall be traversed, or not. See Tit. *Surplusage*.

Where Presentments of Inditelements touches Nufances shall be traversed, or not. See Tit. *Bar*.

Where a Testament shall be traversed, or not. See Tit. *Testament*.

Where the Defendant must traverse the Count, and that shall make an Issue. See Tit. *Issues joined*.

Where Traverse shall be taken upon Traverse. See Tit. *Issues joined*.

Where the Defendant alleges an Affirmative without Traverse, upon which Affirmative Issue shall be joined, and where it shall be joined upon Two Affirmatives, or not. See Tit. *Issues joined*.

Where Finding shall be traversed in Action of the Case, or not. See Tit. *Action of the Case*.

Where a *Que estate* shall be traversed. See Tit. *Que estate*.

Where Tender, Refusal, or Request shall be traversed, and Issue taken upon them, or not. See Tit. *Tender*, *Refusal*, *Request*, and *Issues joined*.

Where Dissent shall be traversed, and Issue taken upon it, or not. See Tit. *Issues joined*.

Where Pleading shall be good in the Affirmative without Traverse for Mischief, or Trial. See Tit. *Issues joined*.

Where upon Plea which comprises Matter in Law, the Party shall not take Traverse. B. 11. 10.

Where Day or Time shall be traversed, and Issue joined upon it, and how. See Tit. *Issues joined*.

Where the Place shall be traversed, and Issue taken upon it. See Tit. *Issues joined*.

Where a mean Conveyance shall be traversed, and Issue taken upon it. See Tit. *Issues joined*.

Where Disseisin shall be traversed, and Issue taken upon it. See Tit. *Replication*.

Where

*Treason. Treasure found. Trespass.*

Where Title is made by Feoffment, the Feoffment shall be traversed, and where there are many Feoffments, which of them the Party pleases. See Tit. *Replication*.

Where Traverse and Averment may be against the Sheriff's Return, or not.

Where Verdict at large may be given upon Traverse by *absque hoc*, or not. See Tit. *Verdict*.

Where Tenure shall be traversed in Trespass, or other Actions, and in which. See Tit. *Tenure*.

Where and in what Actions Seisin of Services shall be traversed, in what not. See Tit. *Seisin*.

Where Surplusage in Pleading shall be traversed, and Issue joined upon it. See Tit. *Issue joined*.

Where Considerations averred without, &c. to raise Uses, shall be traversable, or not. See Tit. *Averment*.

Where Payment of Tithes is traversable, and Issue shall be joined upon it. See Tit. *Tithes*.

Where Notice shall be traversed, and Issue joined upon it. See Tit. *Notice*.

Where Seisin of the Donee in Tail in Formedon is not traversable. See Tit. *Formedon*.

Where a Man's Intent is not traversable, but yet in some Cases shall be tried, and inquired of. See Tit. *Trial*.

Where Pernancy of Profits alledged in Maintenance of a Writ shall be traversed, or not. See Tit. *Pernancy of Profits*.

Where double Traverse shall be taken. See Tit. *Double Plea*.

Where two, three, or more are alledged in Pleading, which of them shall be traversed. B. 2. 43, 45. b. 5. 2 p. 58, 77, 98, 127. b. 6. 24, 25. See Tit. *Replication*.

*Treason.*

Where and what is High Treason by Common Law, what by Statutes, what not. B. 1. 28. b. 3. 10. b. 5. 12, 15. b. 7. 10, 11. b. 8. 28, 166. b. 11.

29. See Tit. *Statutes*, 25 E. 3. c. 2. there.

Where Death of a Man shall be petty Treason, and in what Persons. B. 1. 99. b. 6. Epist. there: b. 7. 13. See Tit. *Crown, Inditments of Treason*, and what are good, what not. B. 7. 5, 6, 10.

Where and what Lands shall be forfeited to the King for High Treason, where, and what not. B. 1. 28, 40, 42, 103. b. 3. 1, 2, 10, 54. b. 4. 46, 57. b. 6. 40. b. 7. 12, 13, 21, 22, 33, 34. b. 8. 72, 166. b. 9. 140. b. 11. 72. See Tit. *Statutes*, 26 H. c. 13. and *Forfeiture*.

Where he that is killed in Rebellion, in levying War, shall forfeit his Lands. B. 4. 57. b. 8. 166. See Tit. *Forfeit*.

Where the King shall have all the Lands of a Man attainted of Treason, of whomsoever they are held. B. 3. 10. b. 7. 20. b. 10. 112. See Tit. *Stat.* and there *Prerogative*, c. 12. *Extinguishment, Tenures, and Revivor*.

Where a Lunatick shall be impeached of Treason, and where he shall not be impeached of Treason. B. 4. 124.

Where Trial shall be by Peers in Cases of Treason. See Tit. *Crown*, and *Challenge*.

Where Lands forfeited to the King for Treason, shall be in him, without, or before Office, or not. See Tit. *Entry congeable*, and *Stat.* 33 H. 8. c. 20.

Where a Man indicted of Treason in the Time of one King, shall be arraigned in the Time of another. See Tit. *Crown*.

*Treasure found.*

Where the King shall have it by his Prerogative. B. 5. 2 p. 108, 109.

Where a common Person may have it by Prescription. B. 5. 2 p. 109. See Tit. *Prescription*.

*Trespass.*

By the Father, or Mother, for taking away

away their Son and Heir, Form of the Writ, and where it lies, or not. B. 3. 38, 39. b. 6. 22. b. 7. 12. See Tit. *Ward*.

Where the Master shall have Trespafs of Battery of his Servant, and Form of the Count. B. 5. 2 p. 108. b. 9. 113. b. 10. 130. See Tit. *Servant and Master*.

Of taking of Fish, and Form of the Writ, and Count. B. 5. 2 p. 34, 35.

Of Cygnets taken, and the Form of the Writ, and Bar, and Justification in it. B. 7. 16.

Where the Writ is general, and Count special. B. 5. 2 p. 34, 35. See Tit. *Writ*.

Where and when a Writ of Trespafs shall abate, because there is another Writ hanging, or not. B. 5. 2 p. 61. See Tit. *Writ*.

For killing Conies, and where it lies, or not. B. 5. 2 p. 104.

For the Guardian, for Ravishment and taking his Ward, and how he shall recover at the Common Law. B. 5. 2 p. 127. b. 9. 72. See Tit. *Ravishment, and Election*.

Where Trespafs shall be for mean Trespafs without Re-entry, and against whom after Re-entry, against whom not. B. 1. 98. b. 5. 2 p. 13, 85. b. 11. 51.

Of new Assignment in Trespafs, how it shall be made, and be good, and what Plea in Bar the Defendant shall have to it. B. 2. 6, 18. b. 8. 146. b. 10. 25. See Tit. *Bar, and Replication*.

Bar in Trespafs for entering into his Park, Warren, or *&c.* to kill Conies, Deer, or *&c.* and what is good, what not. B. 5. 2 p. 104. b. 9. 49. See Tit. *Forest*.

Where, and against whom it lies not with Force and Arms, as betwixt the Tenant and Lord, Lessee and Lessor. B. 4. 11, 76. b. 9. 76. See Tit. *Statutes, and there, Marlb. c. 3.*

Where it lies by a Copyholder against his Lord, or a Stranger, or not. B. 4. 21, 22. See Tit. *Copyhold*.

Where it lies by the Lessor against his Lessee at Will, and when. B. 5. 2 p. 13. See Tit. *Tenant at Will*.

Where and when it lies against him that has Goods bailed to him. B. 5. 2 p. 13.

Where a Man shall be a Trespasser from the Beginning by Matter of After-fact. B. 5. 2 p. 13. b. 8. 146, 147. b. 9. 22, 23, 11 and 76. See Tit. *Ex post facto, and Action of the Case*.

Of Entry into an House, and breaking it, Justification in it, and what is good, what not. B. 5. 2 p. 91, 92. b. 8. 146. b. 11. 99. See Tit. *Justification, and Sheriff*.

Of Battery and Bar in it, what is good and justifiable, what not. B. 11. 99.

Form of pleading in Trespafs, and where he shall say it is the same Trespafs, or not. B. 4. 43. b. 5. 2 p. 61. See Tit. *Pleadings*.

Where entering another's Land by Course and Order of Law, without claiming any Thing in it, is justifiable, and no Trespafs. B. 6. 2, 5. b. 8. 146, twice. See Tit. *Justification*.

For chasing of Beasts, Justification in it, what is good, what not. B. 4. 36, 38. b. 7. 17.

Of false Imprisonment, and Justification in it, and what is good, what not. See Tit. *False Imprisonment*.

Of Emblements taken, Justification, what good, what not. See Tit. *Emblements*.

By the Ordinary, and where he shall have an Action, or not. See Tit. *Ordinary*.

Where Plea in Bar in Trespafs is not good without traversing the Day, or Time. See Tit. *Issue joined*.

Where the Defendant in Trespafs may waive his Plea in Bar after Replication, or *&c.* and plead the general Issue. See Tit. *Waiving of Things*.

Where Colour shall be given in Trespafs in Pleading, and what is good, what not. See Tit. *Colour*.

Where the Plaintiff, or Defendant shall be fined to the King in a Writ of Trespafs. See Tit. *Fine to the King*.

Where of his own Wrong without such Cause shall be a good Replication in Trespafs, without answering the special Matter. See Tit. *Issues joined*.

Verdict

Verdict in Trespass, and what is good, what not, and where Verdict at large is good in it, where not. See Tit. *Verdict*, and *Apportionment*.

What is an Evidence in Trespass for Emblements taken upon Issue not culpable. See Tit. *Emblements*, and *Evidence*.

Bar in Trespass by Licence, and where, and what bars, what not. See Tit. *Licence*, and *Forest*.

Bar in Trespass by Accord. See Tit. *Accord*.

Bar in Trespass by Arbitrement. See Tit. *Arbitrement*.

Bar and Justification in Trespass for Heriot, and what is good, what not. See Tit. *Heriot*.

Bar in Trespass by another Time recovered in another Action. See Tit. *Extinguishment*.

*Trial*.

Of the Intent of a Man, and where the Inquest shall inquire of it, or not. B. 4. 18. b. 5. 2 p. 77. b. 6. 42. b. 7. 4. b. 8. 155.

Where Trial shall be by the first Jurors, or others, and where by first only. B. 9. 32.

Where Trial shall be by Veiors and Pernors. B. 9. 31. See Tit. *Disceit*.

How this Issue, not comprised, not Parcel, or not put in View. B. 9. 32.

Of Issue joined upon Admission and Institution. B. 6. 49. See Tit. *Issue*.

Of Issue upon Installation, or Induction. B. 6. 49.

Trial by Ordeal, when used, when abolished. B. 9. 32.

Of Profession, or the Time of Profession. B. 4. 71. b. 9. 32. See Tit. *Deprivation*.

Of Deprivation, or Resignation. B. 7. 43. See Tit. *Deprivation*.

Of Mismaming, and from what Place the Venew shall come; when the Name, Surname, or Addition of the Name is put in Issue. B. 6. 53, 65. See Tit. *Baron* and *Baroness*.

Where Trial of Matter in Fact shall be by the Court and Justices. B. 8. 155. b. 9. 25, 30, 31.

Of Issue of a Duke, Baron, or *&c.* and where the Trial shall be by Record, and where by the Country. B. 6. 53. b. 7. 15. b. 9. 31, 49. See Tit. *Baron* and *Feme*.

Where the Place shall be alledged after Issue joined, or before, because of Trial. B. 6. 46, 47, 65. b. 5. 2 p. 60. b. 7. 26, 27. See Tit. *Pleadings*, and *Issue joined*, *Alien born*, and *Assets*.

Of a Thing done before Time of Memory, and where the Inquest shall inquire of it, or not. B. 4. 22. b. 9. 27, 28, 33, 34. b. 11. 10.

Of a Thing in another County, and where the Inquest shall inquire of it. See Tit. *Enquest*.

Of a Thing spiritual, and where the Inquest shall inquire, and find it upon Pain of Attaint. See Tit. *Enquest*.

Of a Thing done over Sea, and where the Inquest shall try and inquire of it. See Tit. *Enquest*.

Of Summons upon a Writ of Disceit, and where it shall be by the Summoners and Veiors, and where by the Country. See Tit. *Disceit*.

Of Mayhem, and how. See Tit. *Appeals*.

Of Bastardy general and special, and how it shall be tried. See Tit. *Bastardy*.

Of Age of any Person, and where it shall be by Inspection, where by the Country, where by Proofs. See Tit. *Age*, *Issue joined*, and *Process*.

Of Issue, Son and Heir, or not. See Tit. *Heir*.

Of Issue frank, or Villein, and from what Place the Venew shall come. See Tit. *Villinage*, and *Visne*.

Where one of the Parties is an Alien born, or both, and where it shall be the half Tongue. See Tit. *Alien born*.

Of Ideot, or not. See Tit. *Ideot*.

Of Issue No such Record, and where it shall be by the Record, where by the Country. See Tit. *Record*.

Of Issue Antient Demean, or Frank-fee, and where it shall be tried by the

the Dome-day-Book, where, by the Country. See Tit. *Antient Demaan*.

Of Non-Summons in Pleas real, &c. See Tit. *Ley*.

By Barrail, and how. See Tit. *Barrail*, and *Appeals*.

Of Issue upon Custom, if there be such Custom, or not. See Tit. *Custom*.

By Peers, and where, and who shall have their Trial by Peers, who not. See Tit. *Crown*, and *Challenge*.

Of Collusion in Cases. See Tit. *Collusion*, and *Challenge*.

Of Trial by the Bishop, in what Cases, and what not. See Tit. *Writ to the Bishop*, and *Certificate of the Bishop*.

By Examination, and where, and how. See Tit. *Examination*.

Of Challenges to the Array, or Polls, and what the Court shall do upon Trial of them. See Tit. *Jurors*.

Of Escape, and how. See Tit. *Escape*.

Of Issue not attached by 15 Days. See Tit. *Attachment*.

Of Issues joined to a Court-Baron, and how. See Tit. *Manor*, and *Assent*.

Where a Course of Trial may be changed by Assent of Parties. See Tit. *Assent*.

Where Issue is joined for Parcel, and Demurrer is for another Parcel, the Issue shall be tried before the Demurrer be discussed, or not. See Tit. *Demurrer*.

Of Trial, whether a Man be beyond Sea at the Time of Utlary. See Tit. *Utlary*.

Of Matters indeed by Jurors, and in Law by Judges. See Tit. *Enquest*.

Where Matter of Record shall be tried by the Country. B. 4. 7. b. 6. 15. See Tit. *Estoppel*.

Where Cause of refusing of a Clerk by a Bishop upon Presentment to a Church, shall be tried by the Bishop, and where by the Country. B. 5. 2 p. 57, 58.

Where Trial shall be peremptory, and what Manner of Trial, or not. See Tit. *Peremptory*.

V.

Vacation.

**W**HERE Usurpation and Presentment to a Church, in Time of Vacation, shall not put the Abbot, or &c. out of Possession. B. 6. 50. See Tit. *Quare Impedit*.

Who shall be said Founder of an Abbey, or &c. and have the Temporalities during the Vacation. B. 3 74. See Tit. *Abbot*, and *Prior*.

Where the King shall have the Temporalities of a Bishop, during the Time of the Vacation of the Bishoprick, and his Prerogatives he shall have in them, and because of them. B. 4. 75. See Tit. *Prerogative*.

Where the Ordinary's and Patron's Grant, during the Vacation, is good, and binds the Parson after. B. 1. 147. b. 5. 2 p. 81. b. 8. 145. See Tit. *Annuity*, and *Parson*.

Where a Release to the Patron in the Vacation extinguishes an Annuity, or Rent issuing out of the Church of the Parson. B. 1. 112. b. 5. 2 p. 71, 81. See Tit. *Parson*.

Of Vacation, of the Church by Deprivation of the Incumbent, and the Consequence of it. See Tit. *Deprivation*, and *Notice*.

Of Vacation of the Church by Resignation, and the Consequence of it. See Tit. *Deprivation*, and *Notice*.

Of Vacation of a Church by Death, Cession, or &c. and the Consequence of it. See Tit. *Notice*, and *Q. Impedit*.

Of Vacation of a Church by Purchase of a Plurality, and the Consequence of it. See Tit. *Pluralities*, *Notice*, and *Statutes*, 21 H. 8. c. 13.

Where a Church is void in Deed, and where in Law, and by what Acts, by what not. See Tit. *Q. Impedit*, and *Ipso facto*.

Where, upon Vacation of a Church, the Ordinary ought to give Notice to the Patron before he presents by Lapse. See Tit. *Notice*.

Valua.

## Valuation.

The Estate, Revenue, and Valuation of a Duke, Earl, Baron, or &c. B. 4. 124. See Tit. *Baron and Baroness*.

The Estate, Revenue, and Valuation of a Knight, and who shall be compelled to accept the Degree of a Knight. See Tit. *Fine to the King, Knights, Statutes*, and there, 1 E. 2.

Where the King's Grant is void, because the Value is not expressed in the Letters Patent. See Tit. *Grant of the King*, and *Statutes*, 1 H. 4. c. 6. there.

Where the Fine to the King shall be to the Value of the Land, or Goods of the Delinquent. B. 8. 41. See Tit. *Fine to the King*.

Where Coins are current, and of Value, according to the King's Proclamation. B. 5. 2 p. 114. See Tit. *Proclamation*.

Of Lands upon Execution by *Elegit*, how it shall be done, and how the Sheriff shall demean himself upon it. See Tit. *Execution*.

Of Goods upon Execution by *Fieri facias*, and how the Sheriff shall demean himself upon it. See Tit. *Execution*.

Of Lands upon the Writ of *Extendi fac*, upon Statute Merchant or Staple, and how the Sheriff shall demean himself upon it. See Tit. *Extent*.

Of Land upon Apportionment of Tenure, for a Particel, and how the Valuation shall be made. See Tit. *Statutes*, 18 E. 1. of *Quia Emptores terrarum* there, and *Apportionment*.

Of Marriage, and where the Lord shall recover but the single Value of Marriage. See Tit. *Ward*.

Of Marriage, and where the Lord shall have the double Value, or Forfeiture of Marriage. See Tit. *Action upon Statutes*, and *Statutes, Mert. c. 6. 7.* there.

What Value shall be paid to the King upon Livery sued by the Heir, or for the King's Primer Seisin. See Tit. *Livery*.

Challenge to Jurors for Insuffici-

ency, and of what Value in Lands he shall be who is sworn upon an Inquest. See Tit. *Challenge*.

Where the King's Grant is void by Mistake of the Value in the Recital of it, or &c. See Tit. *Grant of the King*.

Of the Value of Assets to charge the Heir, or bar him in an Action. See Tit. *Assets*.

Of Relief, and what Sum shall be paid for Land held by Knight-Service, and what for Socage Tenure. See Tit. *Relief*.

## Variance.

Where Variance betwixt the Writ, and Record upon which it is founded, abates the Writ, or not; and what Writs. B. 3. 6, 10. b. 7. 4. b. 8. 157. b. 10. 153. See Tit. *Amendment*.

Where Variance betwixt the Plaintiff in Assize and the Deed, and betwixt the Writ of Assize and the Plaintiff, abates the Writ, or not. B. 2. 37. b. 5. 2 p. 40. b. 6. 36. b. 10. 126, 127. See Tit. *Demand, Amity, and Plaint*.

Where Variance betwixt the Writ and the Count abates the Writ, or not. B. 1. 2, 47. b. 5. 2 p. 35, 37, 61, 107. b. 6. 75. b. 8. 33, 48, 49. b. 10. 37, 136. b. 11. 80. See Tit. *Writ general*, and *Count special*.

Where a Man may vary from the Cause declared upon the Distress taken, and avow in Court for another Cause. B. 3. 26. See Tit. *Avowry*.

Where Failing shall be of a Record for Variance, and for what. See Tit. *Failing of a Record*.

Where Amendment shall be of Variance, &c. See Tit. *Amendment*.

Where a Writ shall be by Journeis Accounts, the first Writ abating for Variance. See Tit. *Journeis Accounts*.

Where Uses of Land shall be declared & directed by Indenture bearing Date before, tho' the Assurance subsequent vary in Time, Quantity of Land, or in the Persons. See Tit. *Uses*.

Where in *Quid juris clamat* the Tenant shall be compelled to attorn, notwithstanding

*View. Vest and Devest. Venire facias. Verdict.*

notwithstanding Variance of the Estate, or &c. See Tit. *Quid juris clamat.*

*View.*

Where View shall be granted in a Writ of Right of Advowson, or not. B. 11. 22.

What Thing shall be put in View, and how. B. 7. 3, 23, 24.

Where Jurors, or Recognitors shall have View in Affize, and what shall be put in View, what not. B. 7. 3, 23, 24. See Tit. *Charge*, and *Affize*.

Where Jurors shall have View in Waste. B. 5. 2 p. 119.

*Vest and Devest.*

Where a Chattel, or Estate in Land lawfully vested, shall after be devested and defeated, or not. B. 1. 55, 95, 102, 137. b. 3. 61, 62. b. 6. 74. b. 8. 142, 143. b. 9. 129. b. 10. 55, 56. See Tit. *Chattels*, and *Entry congeable*.

Where an Estate and Possession of Land, or &c. shall be vested, or devested in the Lessor, Feoffor, or &c. without Entry, or a Actual Seizure, or not. See Tit. *Condition*, *Entry congeable*, and *Leases*.

Where an Estate vests presently in a Man by Recovery without Sciffin delivered by the Sheriff. See Tit. *Recovery*.

Where a Remainder limited to right Heirs, vests in the Party himself, and not in his Heirs, as Purchasers. See Tit. *Remainder*.

Where Entry, or Recovery by one shall avail another, and vest the Estate in him. See Tit. *Entry congeable*, and *Recovery in Value*.

Where a Remainder shall vest in a Bastard by the Name of Son. See Tit. *Bastard*, and *Reputation*.

Where after Re-entry, or Recovery by Tenant for Life, or &c. the Reversion shall vest in the Feoffee of him in Reversion. See Tit. *Remainder*.

Where the King's Reversion, or Remainder shall be discontinued, or

not. See Tit. *Discontinuance*, and *Stat* 34 H. 8. c. 20. there:

Where the Remainder of a common Person shall be devested and destroyed for ever by the Act of the particular Tenant, or of a Stranger. See Tit. *Remainder*.

*Venire facias*. See Tit. *Enquest*.

*Verdict.*

In Action of the Case, and what is good, what not; and where Verdict at large shall and may be given in it, or not. B. 2. 25. b. 4. 92. b. 5. 2 p. 24, 89. b. 9. 112. b. 10. 56, 57. See Tit. *Action of the Case*.

In a Writ of Annuity, what is good, and where Verdict at large may be given in it, or not. B. 11. 56.

In Appeals, or upon Inditement of Felony, Murder, or &c. and what are good, and where Verdict at large may be given in them, or not. B. 4. 40, 43, 46. b. 9. 12, 63, 67, 81, 83, 112, 119. See Tit. *Crown*.

Where in Affize of Novel Disseisin, and what shall be good, and where Verdict at large may be given in it, where not. B. 8. 65. b. 9. 12, 13, 14.

In Attaint, and what is good, and where it may be at large in it, and where not. B. 9. 12. See Tit. *Attaint*.

In *Cessavit*, and what is good, what not. B. 8. 66. See Tit. *Cessavit*.

In *Decies tantum*, and what is good, what not. B. 10. 116. See Tit. *Decies tantum*.

In Debt, and what is good, and where Verdict at large may be given in it, where not. B. 2. 4, 5. b. 3. 68, 69. b. 5. 2 p. 30, 119. b. 6. 46, 47. b. 8. 94. b. 9. 12, 74.

In *Ejectione firma*, what shall be good, and where Verdict at large may be given in it. B. 1. 4, 149, 153. b. 2. 59, 60, 91. b. 3. 17, 19, 37. b. 4. 52, 60, 64, 78, 96. b. 6. 14, 17, 67.

In Writ of Ward, and what shall be good, what not. B. 9. 71, 74. See Tit. *Ward*.

In Formedon, what is good, and where Verdict at large may be given in it. B. 9. 13, 14.

In Information of Intrusion, and what is good, and where Verdict at large may be given in it. B. 1. 17, 18. b. 3. 7, 9.

In *Q. Impedit*, what is good, and of what Points the Jurors ought to inquire in it. B. 5. 2 p. 58, 59. b. 9. 48, 49, 51. See Tit. *Q. Impedit*.

Upon Information, or in Action upon the Statute of Usury, and what is good, what not. B. 8. 65.

In Monstrance of Right, what good, what not, and where to be at large. B. 5. 2 p. 163.

In Replevy, what is good, what not. B. 1. 64. b. 2. 56, 57. See Tit. *Replevy*.

In Rescous what is good, what not. B. 9. 12. See Tit. *Rescous*.

In Detinue, and what is good, what not. B. 10. 119.

In the Writ of Value of Marriage, and what is good, what not. B. 10. 119. See Tit. *Action upon Statute, and Statutes, Mert.* 6 and 7. there.

In Trespass, and what is good, and where to be at large, and where the Defendant shall have Benefit of the special Matter found without pleading where he claims nothing in his own Right. B. 5. 2 p. 85, 106. b. 2. 50. b. 3. 25. b. 6. 29, 32, 40. b. 9. 11 to 14.

In Waste, and what is good, and where Verdict at large may be given in it. B. 5. 2 p. 11. See Tit. *Waste*.

Upon what Issues joined Verdict at large may be given, and where upon Issue joined by *absque hoc*, or special Issue, or not. B. 1. 16, 18, 22, 64, 173. b. 2. 4, 5, 8, 9, 28, 56. b. 3. 28, 37, 43. b. 4. 7, 8, 24. b. 5. 2 p. 11, 30, 78, 84, 89. b. 6. 46, 67, 77. b. 7. 26. b. 8. 94. b. 9. 12, 13, 14, 83, 84, 99. b. 10. 122, 123. b. 11. 9, 91.

Where the Verdict which finds more than is put in the Issue, shall be good, and the Surplusage rejected, or not. B. 3. 42. b. 4. 43, 46. b. 5. 2 p. 30. b. 6. 47. b. 9. 12, 34. b. 11. 11, 13, 80. See Tit. *Surplusage*.

Where Verdict shall be good by

Intendment, or not. B. 3. 9. b. 4. 65. b. 5. 5, 7. 2 p. 35, 96, 97, 108, 122. b. 9. 51, 68, 69, 74. b. 10. 57. See Tit. *Enditement*.

Where the Verdict which finds the Point of the Writ, and special Matter contrary to it, which of them shall be taken, and Judgment given accordingly. B. 4. 42. See Tit. *Judgment*.

Where Judgment shall be given contrary to the Verdict, because it appears to be false by Matter of Record, or that they have mistaken the Law. B. 2. 75. b. 4. 42, 53. b. 5. 5. b. 6. 6. b. 7. 1. b. 8. 155. b. 9. 12, 13, 25, 25, 30, 69. b. 10. 92. b. 11. 10. See Tit. *Enquest*.

Where Verdict ought to be of more than what is put in the Issue, otherwise not good. B. 10. 119.

Where Verdict contrary to what is admitted, confessed and affirmed by the Parties in Pleading, is good, or not. B. 2. 4. b. 4. 53.

Where Verdict not finding all that is put in Issue, is not good, and how it shall be supplied. B. 10. 119. b. 11. 56. b. 8. 65, 66.

Where Verdict incertain shall be good, or not. B. 9. 67, 68, 69, 74.

Where Verdict is good without Evidence given. B. 4. 53.

Where a Verdict finding Matter in Deed, or Record, not given in Evidence, is good. B. 4. 52.

Where the Verdict ought to sever the Damages the Plaintiff is to recover. See Tit. *Apportionment*.

Where the Verdict ought to sever the Damages against the Defendants. See Tit. *Apportionment*.

Where the Verdict ought to sever the Damages and Costs. See Tit. *Damages*.

Where Verdict finding a Matter of Record is good. See Tit. *Enquest*.

Where a Verdict finding a Matter in a foreign County, is good, or not. See Tit. *Enquest*.

Where Verdict finding a Matter spiritual as a Divorce, or *Et c.* shall be good. See Tit. *Enquest*, and *Divorce*.



Where Verdict finding Matter of Estoppel is good. See Tit. *Enquest.*

Where Verdict finding Matter before Time of Memory is good, or not. See Tit. *Trial*, and *Enquest.*

Where Verdict which finds Matter done beyond Sea, is good. See Tit. *Enquest*, and *Over Sea.*

Where the Verdict is good, notwithstanding some of the Jurors have eat and drunk. See Tit. *Enquest.*

Of Triers upon Challenge, and how, &c. See Tit. *Furors.*

What Witnesses, and where, &c. See Tit. *Witnesses.*

Where the Writ shall abate by the Verdict. See Tit. *Writ.*

Where the Verdict shall make.

Where a Verdict shall be void, and a new *Venire facias* awarded, or not, but shall be otherwise supplied. See Tit. *Enquest*, and *Nisi prius*, and above.

*Vill, or Town and City.*

Where a Town shall be amerced upon Escape of a Felon, or for other Causes. B. 7. 7. b. 8. 39. See Tit. *Amercement.*

Where and from what Place the Venew shall be upon Issue No such Town. B. 6. 14. See Tit. *Visne.*

Where the Venew shall be from Two Towns, or Hundreds. B. 1. 162. b. 5. 2 p. 36. See Tit. *Visne.*

Where the Venew shall be of a Parish, not of a Town. B. 1. 162. b. 6. 14. b. 11. 25. See Tit. *Venew.*

Where a Manor may be out of a Town, and a *Pracipe* brought of it without naming the Town. B. 8. 119. See Tit. *Manor.*

Of Disfranchisement of a Citizen of a Town, City, or Borough. See Tit. *Disfranchisement.*

Where and how Rent, Land or &c. may be Parcel of Town, Castle, or Honour. See Tit. *Appendant.*

What Towns and Boroughs send and afford Burgeses to the Parliament, what not. B. 9. Epist. b. 10. 123, 124.

*Villein and Villeinage.*

Who shall plead Villenage in Disability of the Person of the Plaintiff, who not. B. 6. 80.

Trial of Villenage in Pleas real, or personal, and from what County or Place the Venew shall come. B. 5. 2 p. 40. See Tit. *Visne.*

Where the Lord may seize his Villein, and in what Place; where, and in what not. B. 5. 2 p. 107. See Tit. *London.*

How, and in what Manner the Lord, or another by his Commandment may chastise his Villein, &c. B. 9. 76.

Whether a Villein be a Chartel, or Inheritance. B. 5. 2 p. 87.

Where a Lord shall have Advantage of a Warranty made to his Villein, and how. B. 1. 136. b. 3. 62. See Tit. *Assignee.*

Where a Reversion granted to the Villein vest in the Lord without Attornment. B. 6. 68. See Tit. *Attornment.*

Where a Villein shall be delivered in Execution upon Judgment, or &c. B. 5. 2 p. 58. See Tit. *Q. Impedit*, and *Quare non admittit.*

Where and what Thing of a Villein the Lord shall have by his Claim, what not without Seizure, or Entry. B. 2. 54. b. 6. 68. b. 9. 73. See Tit. *Continual Claim.*

Of Infranchisement of a Villein, what it is, what not. See Tit. *Infranchisement.*

*Visne.*

Where and from what County or Place the Venew shall come when Issue is taken upon a Deed, or the Circumstances of it. B. 4. 71. b. 6. 15, 48. b. 10. 92.

Where and from what County or Place the Venew shall come, upon Issue joined (no such Town, Hamlet, or Place.) B. 6. 14.

Where the Venew shall be of the Body of the County. B. 6. 14.

Where

Where the Venew shall be of Two Towns, or Hundreds. B. 1. 162. b. 5. 2 p. 36. b. 6. 14.

Where the Venew shall be of a Parish. B. 6. 14. b. 11. 25. See Tit. *Parish*, and *Parishioners*.

Where the Venew shall be of a Manor. B. 1. 162. b. 6. 14. b. 9. 47. b. 11. 17, 18. See Tit. *Manor*, and *Town*.

From what Place the Venew shall be upon Issue taken, upon misnaming of a Person, Town, or *&c.* B. 6. 14. 65.

Where the Venew shall be of the County where the Action was brought. B. 6. 47, 65.

Where the Place shall be alledged after Issue joined, to have the Venew thence, and is not material to the Issue. B. 5. 2 p. 60. b. 6. 47, 65. b. 7. 26, 27. See Tit. *Trial*.

Where the Venew shall be of a Castle. B. 5. 2 p. 18, 19.

From what Place and County the Venew shall be upon Issue frank, or Villein. See Tit. *Trial*, *Assent*, and *Villinage*.

From what Place and County the Venew shall be upon Trial in Cafes of Felony, or Treason. See Tit. *Crown*.

From what County, or Place the Venew shall be where Issue is taken, whether he be Heir, or Son and Heir, or *&c.* See Tit. *Heir*.

*Voucher.*

Where Voucher lies in Assize of Novel Disseisin, and of whom; where and of whom not. B. 8. 50.

Where Voucher lies in *Scire facias*, or not. B. 11. 62. See Tit. *Counterplea of Voucher*.

Where Voucher lies in *Quod ei deforceat*, and what shall be a good Counterplea of Voucher, where the Tenant, or Demandant vouches. B. 11. 62.

Where Voucher shall be in a Writ of Entry, and out of the Lien, and by whom not. B. 1. 15. See Tit. *Count of Voucher*, and *Stat. W. 1. c. 39.* there.

Where a Man shall vouch of another Thing not in Demand, as Rent issuing out of Land. B. 2. 47, 48. b.

10. 97. See Tit. *Counterplea of Voucher*.

Where a Man shall vouch as Heir, because of Possession, tho' he is not Heir. B. 8. 101. See Tit. *Bastard*.

Where a Voucher shall be of a Bastard. B. 8. 101. See Tit. *Bastard*.

Where two, or one shall be vouched at Election upon a Joint Warranty, or not. B. 3. 14. b. 8. 52. See Tit. *Recovery in Value*.

Where if the Tenant fail of his Lien against the Vouchee, or of Part, he fails of all, *&c.* or not. B. 8. 51, 52.

Where one shall vouch alone upon a Warranty made to him and another, or not. B. 5. 2 p. 7, 8, 19. b. 6. 12. b. 8. 51. See Tit. *Counterplea of Warranty*, and *Warranty, Partition, Aid*, from one to another.

Where Voucher shall be of one not in Being, as a Bishop which shall be, or Infant in the Mother's Belly. B. 6. 10, 32. b. 7. 8. See Tit. *Infant*.

Where the Tenant shall vouch himself, or not. B. 1. 98. b. 6. 69.

Where a Man shall be in Course of Tail to vouch, or brought in Course to vouch by Aid prayed. B. 8. 75. b. 11. 81.

Where the Vouchee may enter into Warranty freely, and where he may counterplead the Lien, tho' he enters freely. B. 1. 8, 57, 81. b. 5. 2 p. 41.

Where the Vouchee may enter into the Warranty, specially, saving to him his Action, Rent, or Entry, where, *&c.* B. 2. 73, 74. See Tit. *Protestation*.

Of the Heir in Ward of divers Lords, and how, and in what Manner Execution shall be made upon Recovery in Value. B. 2. 25. b. 3. 13. See Tit. *Recovery in Value*.

Where a Man shall vouch as Heir, yet is in by Purchase. B. 1. 98. b. 6. 69. See Tit. *Heir*.

Where Voucher is, because of a Reversion, or not. See Tit. *Counterplea of Warranty*.

Where Voucher is, because of Exchange. See Tit. *Counterplea of Warranty*, and *Exchange*.

## Use and Uses.

Where Voucher shall be, because of Homage Aunccestrel. See Tit. *Counterplea of Warranty*, and *Homage*, and *Warranty*.

What Pleas in Abatement of a Writ shall the Vouchee have, or not. B. 3. 3. See Tit. *Pleas*.

What the Vouchee shall have in Bar, or the Tenant after Voucher. B. 9. 18. See Tit. *Pleas*.

Where a Man shall vouch as Assignee, and who shall be said an Assignee; where and who not. See Tit. *Assignee*.

Where he that is in of another Estate, &c. or comes in in the Possession, shall not vouch, and contrary. See Tit. *Assignee*.

Where and how the Lord shall vouch, or rebut by Warranty made to his Villain. See Tit. *Villanage*.

Where a Man shall vouch without shewing a Deed, or not. See Tit. *Monstrance of Deeds*.

Where Tenant by Resciet shall vouch, and what shall be a good Counterplea to the Voucher. See Tit. *Counterplea of Voucher*.

Where a Man vouching as Cousin and Heir, ought to shew his Cousinage. See Tit. *Cousinage*.

Count against the Vouchee, how and where. See Tit. *Count*.

Where and in what Actions the Plea shall demur for Nonage. See Tit. *Age*, four times.

## Use and Uses.

What. B. 1. 101, 121, 122, 127, 140, b. 2. 58, 78. b. 6. 64. b. 7. 13, 34.

What are good Considerations to raise an Use and change it, and transfer it out of one Person to another; where and what not. B. 1. 15, 24, 26, 41, 55, 78, 83, 154, 155, 161, 175, 176. b. 2. 11, 15, 75, 76. b. 3. 81, 83. b. 4. 3, 4. b. 5. 2 p. 8, 25. b. 7. 13, 14. b. 8. 94.

Where and who cannot be seized to the Use of another, but only to the Use of themselves. B. 1. 13, 15, 122, 126, 127, 133, 136, 137. b. 2. 78.

Where Use may be declared or a-

verred, as well upon Assurance by Matter of Record, as Fine, or Recovery as upon Assurance made below, and where, and what Averment of Use or Declaration is good, what not. B. 1. 15, 57, 68, 73, 90, 98, 176. b. 2. 50, 56, 57, 72, 73, 75, 77. b. 3. 55. b. 4. 3. b. 5. 2 p. 25, 26, 40. b. 6. 27, 63, 68. b. 7. 40. b. 9. 8, 9.

Where the Feoffees of Feoffees shall be seized to the first Use, or not. B. 1. 116, 120, 122, 127, 133, 135. See Tit. *Subpœna*.

Where the Use of Land shall follow the Nature of the Land, and descend, or &c. as the Land ought and shall be directed according to the Rules of the Common Law. B. 1. 76, 84, 85, 100, 101, 102, 121, 122, 127, 128, 130, 134, 138. b. 2. 56, 57, 58, 77, 78. b. 3. 2. b. 4. 22. b. 6. 34, 43. See Tit. *Subpœna*, and *Disceit*.

Where the Feoffees may alter and change the Use in Prejudice of him to whose Use, and by what Acts and Means, by what not. B. 1. 101, 116, 120 to 127, 130, 139, 140, 141.

Where an Use cannot be created, nor raised out of another Use. B. 1. 136, 137.

Where Uses shall be raised upon Conditions performed, or not performed, and changed out of one Person to another, and how. B. 1. 99, 133, 137, 155, 176.

Where Use of Land shall be guided and directed by Indenture made before, tho' the Assurance subsequent vary in Time, Quantity of Land, the Persons, or &c. or not. B. 1. 99, 100, 105. b. 2. 71, 73, 74, 75, 76, 77, 78. b. 3. 83. b. 5. 2 p. 26. b. 6. 33, 64. b. 8. 94, 155. b. 9. 9, 10, 11, 15. See Tit. *Entendment*.

Where the ancient Uses shall not be revived without Re-entry of the Feoffees, and where their Regress is necessary to revive them, and where they may enter to revive the first Uses, or not. B. 1. 101, 112, 126, 128, 129, 130, 134. b. 7. 9.

In whom the Use shall be upon Feoffment to the Use of his last Will, or of such Person as he shall name

by his last Will. B. 6. 18. See Tit. *Devise*.

Where a Man may, or might give an Estate to his Wife by Way of Use. B. 4. 1, 2, 3, 4, 29. b. 5. 2 p. 25, 26. See Tit. *Baron and Feme*.

Where a future Use shall be extinguished by Feoffment of him to whose Use. See Tit. *Right*.

Where another Use may be averred by Word against a Deed, or contrary to an Use expressed in the Deed, or not. B. 1. 176. b. 2. 75, 77. b. 4. 3, 4. b. 5. 2 p. 26, 68. b. 7. 40. b. 9. 10, 11. b. 11. 25. See Tit. *Amercement, and Bargain, and Sale*.

Where a Man may revoke Uses, and new Uses be limited, and how, and what Revocation is good, what not. B. 1. 111, 112, 164 to 167, 173, 174. b. 3. 82, 83. b. 5. 2 p. 90, 91. b. 6. 27, 28, 63. See Tit. *Uses*.

Where and what Gifts, Grants, Feoffments, Sales, or Devises done and executed by him to whose Use, after the Stat. 1 R. 3. where good, and how long they stood; what not. See Tit. *Statutes*, 1 R. 3. c. 1. there, and *Devises*.

Form of pleading where a Man makes Title by him to whose Use, where he ought to shew how the Use began. See Tit. *Pleading*, in making Title in a particular Estate there.

Of Formedon by the Heir of him to whose Use in Tail, and Form of the Writ and Count in it. See Tit. *Formedon*.

Where a Devise by him to whose Use is good, and how it shall be executed. See Tit. *Devise*.

For Years of Lands, or Chattels real and personal. See Tit. *Chattels*.

Where Tenancy by Courtesy shall not be of an Use. See Tit. *Courtesy*.

Where Dower shall not be of an Use. See Tit. *Dower*.

How Use of Land shall be united to the Possessor of it. See Tit. *Stat.* 27 H. 8. c. 10. and the Exposition of the Statute there.

Where the Heir of him to whose Use shall be in Ward. See Tit. *Ward*.

Where the Heir of him to whose

Use shall sue Livery, or not, but the Feoffees shall have *Ouster la main*. See Tit. *Ward, Livery, and Ouster la Main*.

Where Feoffment to the Use of a Body politick, as an Abbot, &c. is Mortmain. See Tit. *Mortmain*.

Where he to whose Use shall be a Disfeisor to his Feoffees. 1 R. 3. See Tit. *Statutes, and Disfeisin*.

Where Lands in Use, or Use of Lands shall be put in Execution. See Tit. *Extent, Recognisance, and Statutes*, 19 H. 7. c. 15. there.

Where Fines levied by him to whose Use in Tail, shall bar the Issues in Tail, or not. See Tit. *Averment*.

Where particular Estate in Use, &c. shall be forfeited, or not. See Tit. *Forfeiture*.

Where Use in Tail shall be discontinued. See Tit. *Discontinuance*.

Where a Release to him to whose Use is good, or not, in Default of sufficient Possession. See Tit. *Releases*.

Where a Writ shall be maintained against him to whose Use, as Pernor of the Profits. See Tit. *Maintenance of Writs*.

*Usury.*

Where and what Contract or Bargain shall be Usury, or not, and the Exposition of the Statutes made against Usury. B. 3. 80, 81. b. 5. 2 p. 69, 70. b. 8. 65. b. 9. 26. See Tit. *Stat.* 37 H. 8. c. 9. 13 El. c. 8. there.

Where a Fine levied upon usurious Assurance and Conveyance, is void, because of Collusion, or not. B. 3. 2.

Form of Pleading where a Man would avoid an Obligation, or &c. for Usury. B. 5. 2 p. 119. See Tit. *Debt*.

Verdict in Action upon the Statute, or Information upon the Statute of Usury, and what is good, what not. B. 8. 65. See Tit. *Verdict*.

*Utlawry.*

Where Process of Utlawry lies in Account. B. 3. 12. See Tit. *Exigent, Account, Statutes, Marlb.* c. 13. there, and *West.* 2. c. 11.

Outlawed is as put out of the Law.

B. 7. 14.

Where Process of Utlawry lies in Action of the Case. B. 10. 72. See Tit. *Action upon the Case*, and *Statutes*, 19 H. 7.

Where Process of Utlawry lies in a Writ of Debt. B. 3. 12. b. 5. 2 p. 88. See Tit. *Process*, and *Statutes*, 25 E. 3. c. 17.

Where Process of Utlawry lies in Trespass. B. 10. 72. See Tit. *Process*.

Where and against whom Process of Utlawry lies not. B. 6. 53, 54. b. 7. 15, 33, 34. b. 9. 49, 68. b. 10. 76. See Tit. *Exigent*.

Where Utlawry shall be avoided, because the Party outlawed was beyond Sea at the Time, &c. B. 7. 14, 20. b. 8. 101. b. 9. 31. b. 5. 2 p. 111. See Tit. *Over Sea*, and *Certificate*.

Where Utlawry shall be avoided, because of Misreturn of the Sheriff, and how. B. 4. 94. b. 8. 141.

Where and what Matter shall be Error in Utlawry. B. 4. 94. b. 5. 2 p. 9, 111. b. 8. 142, 143, 252.

Where Utlawry shall be avoided, because the Outlaw was imprisoned at the Time, &c. B. 5. 2 p. 111.

Where and what Things shall be forfeited to the King upon Utlawry, or not. B. 3. 2, 3, 4; 35, 39, 82. b. 4. 93. b. 5. 2 p. 111. b. 6. 80. b. 7. 13, 21, 22. See Tit. *Thing in Action*.

Where Forfeiture of Goods and Chattels shall be by Award of Exigent. B. 5. 2 p. 111. b. 11. 41.

Where and how Executors shall avoid Utlawry had against their Testator. B. 6. 80. b. 5. 2 p. 111.

Where, how, and when a Man shall be restored to his Goods, &c. who reverses Utlawry by Plea, Writ, or general Pardon. B. 5. 2 p. 90, 111. b. 8. 96, 97, 143, twice. b. 9. 80. See Tit. *Error*.

Where Utlawry shall be avoided by Plea, without suing a Writ of Error, or not. See Tit. *Error*.

Where Utlawry shall be avoided by Reversal of another Record, upon which it depends. See Tit. *Error*.

Where Land descends to the Son

and Heir, notwithstanding Utlawry in the Father. See Tit. *Descend*.

## W.

*Waging Law*. See Tit. *Ley*.

*Waif and Estray*.

**W**HERE and what Thing shall be said an Estray, where and what not. B. 5. 2 p. 107, 108. b. 7. 16.

Where and what Goods shall be said waived and forfeited by Waiver, or by Flight of a Felon; where and what not. B. 5. 2 p. 109. b. 7. 16.

Where and when the Property of Goods waived and estrayed shall be adjudged in him who has the Franchise to have them, and where before Claim, or Seizure, or not. B. 5. 2 p. 107, 108. b. 7. 16.

Where Proclamation is to be upon Goods taken and claimed as Estrays, and how, &c. B. 5. 2 p. 107, 108. b. 7. 16.

Where the Defendant in Trespass for taking of Goods as Waif and Estray, ought to give Colour. B. 10. 89, 91. See Tit. *Colour*.

Where Justification in Trespass of Goods taken and waived, or estrayed, shall be good, or not. B. 5. 2 p. 108. b. 7. 16.

Where the Owner shall have them again, if he claims within a Year and Day, and how the Year and Day shall be accounted. B. 5. 2 p. 107, 108. b. 7. 16. See Tit. *Claim*, and *Computation*.

Where Infants, Women covert, or &c. shall be bound if they claim not within a Year, and Day. See Tit. *Infants*, *Claim*, and *Baron and Femme*, and above.

*Wales*.

Where the Courts of *Westminster* shall have Jurisdiction, and hold Plea of Land, or for Trespass there, or not. B. 7. 21.

Expo-

Exposition of Statutes made concerning *Wales*. B. 4. 33. b. 5. 2 p. 85, 86. b. 7. 21.

*Waiving of Things.*

Where the King by his Prerogative may waive the Issue, or Demurrer, or take a new Issue, or Demurrer, or not. B. 5. 2 p. 104. See Tit. *Prerogative of the King*.

Where a Devise or Legacy may be waived, and what shall be said Waiving, what not. B. 3. 26. b. 9. 140. See Tit. *Devise*.

Where Waiving a Thing below, binds as strongly as Disclaim in a Court of Record, or not. B. 3. 26. b. 4. 3, 4.

Where Judgment may be waived, and a new Original taken, or not. See Tit. *Extinguishment*, and *Trespass*.

Where the Benefit of a Feoffment, or Gift of Land may be waived by Disagreement after. See Tit. *Agreement* and *Disagreement*, and *Feoffment to many*, and *Livery to one*.

Where a Man may waive a Gift of Goods to himself, made in his Absence, &c. See Tit. *Gift*.

Where Discent of Land may be waived, or not. See Tit. *Demand*, and *Disclaim*.

Where a Man may plead a Plea in Bar, and conclude his Plea with (so) &c. and the precedent Matter shall not be waived by it, or contrary. See Tit. *Bar*, *Bastardy*, *Debt*, and *Right*.

Where a Woman may waive her Dower, or Jointure, and be anew indowed. See Tit. *Dower*, twice.

Where the Benefit of a general, or particular Pardon may be waived, or not. See Tit. *Charter*.

Where the Benefit of an Action given by Statute, may be waived, and an Action at the Common Law before taken. See Tit. *Election*.

Where Process given by Statute may be waived, and Process at the Common Law before taken. See Tit. *Process*.

Where Judgment given by Statute may be waived, and Judgment at the

Common Law prayed, and contrary, or not. See Tit. *Election*.

Where upon Plea to the Writ, and Conclusion the Action, or contrary, the Premises of the Plea are waived. See Tit. *Pleadings*.

The Matter of Estoppel shall be waived, if it be not relied upon, but Issue taken upon another Point. See Tit. *Estoppel*.

Where Issue in Tail may waive the Affets descending to him, and take his Writ of Formedon, or not. See Tit. *Acceptance*, and *Exchange*.

Where the special Matter is found by the Verdict at large, and the Conclusion is precise to the Writ, the special Matter shall be waived, or not. See Tit. *Judgment*, and *Enquest*.

Where he that has an Estate, or Seigniority out of Land, may waive an Estate made to him, and others, and so preserve his Rent, or Seigniority. See Tit. *Extinguishment*.

Where a Franchise by Prescription shall be lost and extinguished by Acceptance of the King's Charter of Grant of late Time, and the Advantage of Prescription by such Grant waived. See Tit. *Extinguishment*.

Where Plea in Bar in Trespass shall be waived by a new Assignment. See Tit. *Bar*, and *Trespass*.

Where if one Parry offer to demur, the other cannot waive it. See Tit. *Demurrer*.

*Warren*. See Tit. *Forests*.

Where a Man may have a Warren in his own Land, and how, and by what Means. B. 7. 23. See Tit. *Forests*.

Where taking a Lease of the Land in which a Man has a Warren, is no Suspension of the Warren. B. 7. 23. See Tit. *Suspension*.

*Ward*.

Form of the Writ of Right of Ward, and what Matter is sufficient, what not. B. 5. 2 p. 18. b. 8. 86. b. 9. 72.

Form of Ejectment of Ward, and what Matter is sufficient to abate it.

B. 10. 130. b. 11. 45, 46. See Tit. *Ejectionment of Ward*, and *Statutes*, 28 E. 1. of Wards.

Form of the Writ of Ravishment of Ward, and what Matter is sufficient to abate it. B. 9. 73.

Form of the Writ of Value of Marriage. B. 5. 2 p. 127. b. 6. 70, 75. b. 9. 73. b. 10. 119. See Tit. *Action upon Statute*, and *Form*.

Where one Writ of Ward lies not upon several Tenures. B. 8. 86. See Tit. *Writ*.

Who shall be said a Deforceor of a Ward, against whom a Writ of Right of Ward, or Ravishment of Ward lies, and is maintainable, who not. B. 9. 72, 73. See Tit. *Statutes*, W. 2. c. 35.

Where a Man shall have the Ward fallen in another's Time, to which he is a Stranger, or not. B. 3. 92, 93.

Count in Ejectionment of Ward. B. 11. 55. See Tit. *Ejectionment of Ward*.

Where the Father or Mother shall have a Writ of Trespass, &c. of their Son and Heir ravished and taken out of their Possession, and against whom, against whom not. B. 3. 38, 39. b. 6. 22. b. 7. 12, 13.

Count in the Writ of Intrusion, &c. the Marriage not satisfied. B. 10. 119. See Tit. *Action upon Statute*.

Count in Forfeiture of Marriage, or *Valore maritagii*. B. 6. 70, 75. b. 10. 110. See Tit. *Action upon Statute*.

Where the Lord shall have a Writ of Ward for the Body of the Ward, where he may seize him before he has the Land in Possession, or not. B. 9. 129.

Where the Lord cannot enter upon the Feoffee supposed by Collusion, but is put to his Writ of Ward to recover it. B. 9. 73, 129. b. 11. 77. See Tit. *Collusion*, and *Statutes*, *Maylb.* c. 6.

Where the Lord shall not have the Wardship of the Son and Heir, or Daughter and Heir, in the Life of the Father, or Mother. B. 3. 38, 39.

Where the Lord shall have the Wardship of the Heir, and Lands of his Tenant, notwithstanding the Feoff-

ment, or &c. of his Tenant by Collusion in such Case; where not. B. 1. 122. b. 2. 94. b. 3. 66, 81. b. 4. 4, 40, 83. b. 8. 163. b. 9. 73, 129. See Tit. *Collusion*, and *Statutes*, *Marlb.* c. 6. there.

Where an Infant and his Lands shall be in Ward, to which he has Right or Title to enter, and to which he comes by his own Act, or Purchase, as by Recovery, or Entry, or not. B. 1. 98, 99, 106, 156. b. 2. 80. b. 3. 35. b. 4. 125. b. 6. 3.

Where the King shall have Wardship by Reason of such Lands to which an Infant has Right or Title to enter, and shall have such Lands in Ward, or not. B. 2. 60. b. 7. 7. See Tit. *King*, and *Prerogative*.

Where the King shall have the Wardship and Custody of Ideots, and of their Lands and Goods, and of what, what not. B. 4. 56, 126, 127. b. 9. 170. See Tit. *Ideots*, and *Prerogative*.

Where the King shall have the Wardship of Lands held of other Lords, as well as of those held of him. B. 9. 16, 133. See Tit. *Prerogative*.

Where the Heir and Issue of the Donee in Tail shall be in Ward, and where, notwithstanding Discontinuance by his Ancestor, and to whom he shall be in Ward. B. 2. 91, 92, 93. b. 8. 166. b. 9. 126. See Tit. *Avowry*.

Where the Heir shall be in Ward by Discent of a Reversion. B. 2. 92, 93.

Where the Heir shall be in Ward upon Discent of a Remainder, and when. B. 2. 92, 93. b. 6. 3. b. 9. 129, 132, 134. b. 10. 81.

Where the Heir of him who had the Estate of Inheritance jointly with one whose Estate was for Life, shall be in Ward, and when. B. 8. 163. b. 9. 126.

Where the Lord shall have the Wardship, &c. notwithstanding the Seigniorship was suspended at the Death of the Tenant, or not. B. 2. 92, 93. b. 9. 129.

Of the Heir of him to whose Use, and where not. B. 2. 88, 113, 123, 124. b. 4. 4. See Tit. *Statutes*, 4 H. 7. c. 17. there. b. 6. 76.

Where the Body shall not be in Ward, but the Lands shall, and where none of them shall be in Ward, notwithstanding the Tenant holds by Knights Service. B. 3. 92, 93. b. 9. 125, 129, 131, 133. See Tit. *Statutes*, 32 H. 8. c. 1. 34 H. 8. c. 5.

Where the Heir and his Land shall be in Ward, notwithstanding he is knighted during his Nonage, or not. B. 6. 73. b. 8. 173.

Where the Executors shall have the Wardship fallen in the Time of the Lord, Testator, or not, but the Heir. B. 2. 93. See Tit. *Chattels*.

The Ages of the Heir, Male or Female to be in Ward, and which are their marriageable Years, and where the Heir female shall be in Ward after Fourteen Years of Age till Sixteen, or not. B. 6. 22, 71, 72, 74. b. 7. 43. b. 2. 72. See Tit. *Stat. Morton*. c. 6, 7. and *West*. 1. c. 23. there.

Where the Ward shall be twice married by the Lord, and where he shall be married by the Lord, where he was married by the Father before, or by the Ravisher, or not. B. 5. 2 p. 102. b. 6. 22. b. 9. 132.

Where the Lord Guardian shall out the Termor, or Tenant by *Elegit* of the Tenant, or not. B. 4. 82, 83.

Where the Lord shall recover but single Damages against the Ravisher, or in a Writ of Ravishment, and where the double Value. B. 9. 72, 73. See Tit. *Statutes*, W. 2. c. 35. and *Judgments*, and *Damages*.

Bar in Writ of Ward by Release, where; where not. B. 2. 68. b. 5. 2 p. 97. See Tit. *Release*.

Bar in Writ of Ward, where, and where not by Accord. B. 6. 43. See Tit. *Accord*.

What Verdict is good in Writs of Ward, what not. B. 9. 71, 74.

What Judgment shall be given in Ravishment of Ward. B. 9. 72, 74.

See Tit. *Fine to the King*, *Imprisonment*, and *Stat. West*. c. 35.

What Issue shall be taken in Writs of Ward, and good, what not. B. 2. 92. b. 5. 2 p. 58, 127. b. 6. 70. b. 10. 119. See Tit. *Issues joined*, and *Tender*, *Refusal*, and *Action upon Statutes*.

Where Orphans shall be in for their Body, Lands, or Goods, and how, and to whom. B. 4. 65. b. 5. 2 p. 73.

Where a Writ of Ward shall be general, and the Court special. See Tit. *Writ*.

Where the Writ of Ward shall abate by Death of the Heir, or his Coming to full Age, or by Death of the Parties, Plaintiff, or Defendant, or not. B. 5. 2 p. 18. b. 9. 72. See Tit. *Resummons*.

Where a Grant by the Guardian Socage, or because of Nurture, is good, or not. B. 3. 38, 39. See Tit. *Grant*.

Where the King shall have the Ward of Ideots and Lunaticks, and of their Lands. See Tit. *Ideots*, and *Prerogative*.

Where the King shall have Prerogative in Wardship. See above, and Tit. *Prerogative*.

Where it is in the Election of the Lord, to have the Wardship of the Heir of his Tenant, or his Services. See Tit. *Election*.

Where the Lord shall be concluded to have the Wardship of the Heir of his Tenant by Acceptance of Services, and which. See Tit. *Acceptance*.

Of Land and Body, by the Statutes 32 and 34 H. 8. and where, how, and when the King, or other Lord shall have Wardship by these Statutes. See Tit. *Statutes*, 32 H. 8. c. 1. there.

Where Tender of Marriage is material by the Guardian, and what is a good and sufficient Tender, what not. See Tit. *Action upon Statutes*, and *Tender*.

Where the Lord shall have the Value of Marriage against the Heir, and where the double Value, and where, and when he shall retain the Land for it. See Tit. *Action*, and *Statutes*, *Merton*. c. 6. 7. there.

What



Ward. Warranty.

What Proceſs ſhall be awarded in a Writ of Ward upon the Return of the Sheriff, or &c. See Tit. *Proceſs*.

Where and in what Actions an Infant ſhall answer, or sue Actions by his Guardian. See Tit. *Attorney*.

Where Writ of Dower lies against a Guardian, and Dower assigned by him is good. See Tit. *Dower*.

What Damages shall be recovered in a Writ of Ravishment of Ward, or &c. and where Costs shall be recovered also. See Tit. *Damages*.

Where the Lord shall have the Wardship of the Heir of his Tenant who holds by Castle-guard, tho' not by Esuage. See Tit. *Esuage*.

Where the Lord shall have the Wardship of the Heir of his Tenant who holds by Grand Serjeanty. See Tit. *Grand Serjeanty*.

Where Husband and Wife shall be jointly sued in a Writ of Ravishment of Ward, or &c. See Tit. *Joining in Action*.

Where a Man may have an Action of Trespas at the Common Law, or a Writ of Ravishment of Ward at his Election. See Tit. *Election*.

Where ancient Demean is a Plea in a Writ of Ward. See Tit. *Ancient Demean*.

Where Wardship shall be because of Priority, and what shall be said Priority, and where it holds not against the King. B. 5. 2 p. 56. See Tit. *Statutes*, 28 E. 1. of Wards, &c.

Warranty.

By the Words *Dedi* and *Conceſſi*, and who are bound to Warranty by them, and vouch, &c. by them, who not. B. 1. 2. b. 4. 81. b. 5. 2 p. 17, 18. See Tit. *Counterplea of Warranty*.

Warranty in Law, and which are Warranties in Law, and who shall vouch, &c. or be vouched, &c. by them, who not. B. 1. 1, 2, 96. b. 3. 14. b. 4. 81, 121, 122. b. 5. 2 p. 17, 18.

By Homage Ancestrel, and where it is destroyed, and lost. B. 3. 14. b. 6. 12, 13. b. 7. 12. b. 8. 75. See Tit. *Counterplea of Warranty*, and *Implied*.

By Exchange, and who shall vouch by it, who not. B. 1. 96. b. 4. 121. See Tit. *Exchange*, and *Assignee*, and *Counterplea of Warranty*.

Because of the Reversion, and who shall be bound to warranty by it. B. 4. 81. See Tit. *Counterplea of Warranty*.

General against all Men, and which it is, and by what Words. B. 1. 1, 2. b. 4. 81.

What is lineal, and where it bars not in Formedon without Assets. B. 4. b. 8. 52. b. 10. 37, 38.

What is collateral, and where such Warranty bars in Formedon without Assets, or not. B. 1. 66, 67, 76, 140. b. 3. 59, 62. b. 5. 2 p. 47, 79, 80. b. 8. 51, 52, 53, 54. b. 9. 11, 26, 126. b. 10. 96, 97. See Tit. *Stat. Gloucest.* c. 3. and 11 H. 7. c. 20.

What shall be said Warranty, which begins by Disseisin, what not. B. 3. 78. b. 5. 2 p. 79, 80. b. 8. 37.

Where Warranty by an Infant, or Man of unsound Memory binds them not, but is void in Law. B. 4. 125.

Where Warranty shall be void against one Person, and stand in Force against another, and where it shall be defeated and avoided in Part, and stand in another Part; or not. B. 8. 51, 52. See Tit. *Voucher*.

Where Warranty shall not enlarge nor amend an Estate, but cease when the Estate determines, &c. B. 1. 85. b. 10. 96, 97.

Where Warranty in Law is extinguished, and of no Effect, by Warranty in Deed, or not. B. 4. 82.

Where Warranty of Land extends to Rent, Common, or &c. to vouch, or rebut by such Warranty. B. 2. 47. b. 10. 97.

Where Warranty collateral binds the Right for ever, so that a Man may make Title to Land by it. B. 8. 53. b. 10. 97.

Where Warranty to two jointly shall be taken and construed as Several. B. 5. 2 p. 8, 19. See Tit. *Voucher*, and *Exposition*.

Where he that is in of another Estate than &c. shall not have Avail of Warranty. B. 1. 122, 136. b. 3.

62, 63. See Tit. *Counterplea of Warranty*.

Where he that comes in in the Post by Act of Law, shall take Avail of Warranty by Voucher, or Rebutter, or not. B. 1. 2, 122, 125, 128, 135, 136. b. 3. 62, 63. b. 5. 2 p. 18. See Tit. *Assignee*.

Where Warranty is extinguished and lost by Act of Law. B. 1. 98. b. 6. 69.

Where Warranty is extinguished by Act of the Parties, as Feoffment, Release, or Partition. B. 1. 112, 128. b. 6. 12. b. 8. 75, 154. See Tit. *Release*.

Where Warranty is extinguished or suspended by Act of a Stranger, as Disseisin. B. 1. 128.

Where Warranty descending upon a Woman covert shall bind her for ever, or not. B. 1. 67, 140. See Tit. *Baron and Feme*.

Where an Infant is bound by Warranty collateral descended upon him during his Nonage. B. 1. 67, 140. See Tit. *Infant*.

Where and in what Actions, personal, or mixt, Warranty collateral of the Ancestor of the Plaintiff shall not bar to rebut the Plaintiff. B. 10. 97.

How a Warranty shall run upon a Fine levied by two, or more; or to two, or more. See Tit. *Fines of Lands*.

Of a Chattel real, and where the Lessee shall have a Writ of Covenant against his Lessor, upon being outed upon such Warranty. See Tit. *Covenant*.

Where Heirs are not bound to Warranty without exprefs Mention made of them in the Clause of Warranty. See Tit. *Heir*.

Where upon Warranty by two, or more, the Survivor only shall be charged, and render in Value, or not. See Tit. *Recovery in Value*.

Where a Man or Woman shall not be Rebutter by Warranty, unless he or she be Heir at the Common Law. See Tit. *Rebutter*, and *Voucher*.

Where and who shall rebut by Warranty as Assignee, or as Assignee of Assignee, or as Heir of the Assignee; where and who not. See Tit. *Assignee*.

Where the Assignee shall vouch, or rebut upon Warranty, without shewing the Deed, or not. See Tit. *Assignee*, and *Monstrance of Deeds*.

Where he that rebuts by Warranty, may convey by *que estate*, without shewing how, or not. See Tit. *Que estate*.

Where a Condition annexed to Warranty that he shall not vouch, or not rebut by Warranty, is good, or not. See Tit. *Condition repugnant* there.

Where Warranty made to many, may be darreined by one alone, or not. See Tit. *Counterplea of Warranty*.

Where Warranty is extinguished and lost by retaking as high an Estate of the Feoffee as he gave. See Tit. *Voucher*.

Where a Coparcenor shall have Aid of his Companion to darrein the Warranty, or not. See Tit. *Aid*.

Where Warranty collateral shall be avoided by Entry, or continual Claim. See Tit. *Continual Claim*.

Where the Lord shall have Benefit of the Warranty made to his Villein by Voucher, or Rebutter. See Tit. *Villinage*.

Where a Man enters into Warranty freely, without Process. See Tit. *Voucher*.

Where a Man may vouch one or two by a joint Warranty made, at his Election, or not. See Tit. *Voucher*.

Where the Voucher may enter in the Warranty specially saving to himself his Action, Rent, Right, or *&c.* See Tit. *Voucher*.

Of Warranty with Assets, and all the Matter concerning Assets by Discent. See Tit. *Assets*.

Of Recovery in Value upon Warranty, and the whole Matter concerning it. See Tit. *Recovery in Value*.

Of Voucher by Warranty in Deed, or in Law, and all the Matter concerning

cerning Voucher. See Tit. *Voucher*, *Counterplea of Voucher*, and *Counterplea of Warranty*.

*Warranty of Attorney.*

Form of Entry of Warrant of Attorney in *Præcipe quod reddat* of a Mesuage, Mill, or Wood, or &c. B. 4. 87.

*Warranty of Charters.*

Form of the Writ, and what Matter is sufficient to abate it, what not. B. 8. 48, 159.

In what County the Writ of Warranty of Charters shall be brought. B. 7. 3. See Tit. *Writ*.

Where the Writ of Warranty of Charters lies and shall be maintained by an Assignee. B. 5. 2 p. 16, 17. See Tit. *Assignee*.

Where it lies for the Heir of the Assignee, or Assignee of the Assignee. B. 5. 2 p. 16, 17. See Tit. *Assignee*.

Where the Writ of Warranty of Charters lies before a Man be impleaded, and the Judgment upon it. B. 8. 134. See Tit. *Recovery in Value*.

Where he who is in of another Estate than that to which the Warranty was made, shall have and maintain a Writ of Warranty of Charters, or not. See Tit. *Warranty, Assignee, Counterplea of Warranty*.

Where the Writ of Warranty of Charters shall be general, and the Count special. See Tit. *Writ*.

Where the Writ of Warranty of Charters lies, and is maintainable, because of Homage Ancestrel. See Tit. *Counterplea of Warranty*.

Where Warranty of Charters lies, and shall be maintained, because of Homage Ancestrel. See Tit. *Counterplea of Warranty, and Exchange*.

Where and when Lands shall be bound to render in Value, by using the Writ of Warranty of Charters. See above, and Tit. *Recovery in Value*.

Where upon a Writ of Warranty

of Charters a Fine may be levied. See Tit. *Fines*.

*Waste.*

Form of the Writ of Waste, and where in the *Tenet*, where in the *Tenuit*. B. 4. 6, 8. b. 5. 2 p. 12, 45, 75, 115. b. 6. 44.

Where one Writ of Waste lies and shall be maintained upon several Leases. B. 8. 87. See Tit. *Writ*, twice.

Where a Tenant in Common, or Join-Tenant may have an Action of Waste against his Companion, &c. B. 11. 49, 82. See Tit. *Statutes*, W. 2. c. 22.

Where and upon what Lease the Writ shall be general, and Count special. See Tit. *Writ*, and *Leases*, twice.

Where and against whom in a Writ of Waste the Statute ought to be rehearsed, &c. against whom not. See Tit. *Action upon the Statute*, and below.

Against the Pernor of Profits. See Tit. *Stat.* 11 H. 6. c. 5. and the Exposition of it there.

Where the Husband and Wife shall join in Action of Waste, and be sued jointly. B. 5. 2 p. 57, and 115. See Tit. *Baron and Feme*, and *Joining in Action*. B. 9. 72.

Count in the Writ of Waste, and what is good, what not. B. 5. 2 p. 12, 77. b. 6. 68. See Tit. *Writ General*, and *Count Special*.

Against Tenant by Courtesy, or Dower, and the Bar in it. B. 3. 23. b. 4. 62. b. 5. 2 p. 13. b. 6. 37, 41, 43. b. 9. 142. b. 11. 83. See below.

Bar in Waste against the Tenant for Years, or Life, &c. where good for the mean Estate for Life, or Years, or not. B. 2. 92. b. 5. 2 p. 76. b. 6. 37. b. 13. 44, 47.

Bar in Waste by Accord. B. 4. 1. b. 6. 43, 44. See Tit. *Accord*. b. 9. 78.

Where the Wife shall be punished for Waste done by the Husband during the Coverture, or not. B. 8. 44. See

See Tit. *Baron and Feme*. B. 9. 72. and Tit. *Joining in Action*.

Bar in Waste, because he became ruinous by the Act of God, and where, or not. B. 4. 63. b. 10. 139, 140. b. 11. 80, 84.

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Bar in Waste by the Clause in the Deed (without Impeachment of Waste) and where, and how to be construed. B. 2. 23. b. 4. 63. b. 9. 9. b. 11. 83. See Tit. *Exposition*.

Bar in Waste by the Grantee of the Reversion for Defendant of Attornment. See Tit. *Attornment*. B. 2. 35, 68. b. 4. 70. b. 5. 2 p. 113. b. 6. 37, 68. b. 8. 94.

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What shall be said Waste in Houses, Walls, or other Things about the Houses, what not. B. 2. 92. b. 4. 63, 64. b. 5. 2 p. 119. b. 6. 43.

Where and what Act, or Thing shall be said Waste in Lands, where and what not. B. 4. 67, 68, 70. b. 5. 2 p. 12.

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Justifiable for Amending, Repairing, or Building anew, and where, or not. B. 11. 82.

Where Action of Waste lies not against Tenant by *Elegit*, Statute Merchant, or Staple. B. 6. 37.

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Where Waste lies against an Occupant. B. 6. 37. b. 10. 98. See Tit. *Occupant*.

Where Tenant by Copyhold may commit Waste, and shall not be pu-

nished for it. B. 4. 25, 27, twice. b. 5. 2 p. 13. b. 8. 63. See Tit. *Copyhold*.

Tenant at Will wastes in Houses, Woods, &c. what Remedy for the Lessor. B. 5. 2 p. 13. and Tit. *Action upon the Case, and Tenant at Will*.

Where it lies not by Tenant in Tail against his Lessee for his own Life, or his Grantee of his whole Estate. B. 2. 52. b. 3. 84. See Tit. *A-beyance*.

Where it lies by the Feoffee of the Lessor, after Re-entry of the Lessee. B. 2. 68. b. 5. 2 p. 113. See Tit. *Attornment*.

Where Action of Waste lies against Tenant in Dower, or Courtesy, after they have granted their Estate over, and for whom, for whom not. B. 3. 23. b. 9. 142.

Where Waste once unpunishable shall after become punishable by Accidents, and by what. B. 2. 92. b. 5. 2 p. 76. b. 8. 76. b. 11. 83. See Tit. *Confirmation*.

How the Sheriff shall demean himself upon a Writ to enquire of Waste. B. 4. 65. b. 8. 152. See Tit. *Sheriff*.

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What Return of the Sheriff is good in a Writ of Waste, what not. B. 8. 152. See Tit. *Return*.

What Issue is good in a Writ of Waste. B. 3. 28. b. 5. 2 p. 119.

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Replication in Waste what is good, what not. B. 5. 2 p. 77.

Verdict in Waste what is good, what not. B. 5. 2 p. 11.

Judgment in Waste, what shall be said the Place wasted, and where more shall be recovered than the Place wasted. B. 11. 50.

At the Common Law, and the Judgment against whom it lies, against whom not. B. 4. 62. b. 8. 87. b. 10. 116. b. 11. 49, 50, 81, 82. See above, twice.

Where

Where Costs of Suit shall not be recovered in a Writ of Waste. See Tit. *Damages*.

Where Jurors in a Writ of Waste shall have the View, and how. See Tit. *View*.

Where Estrepiement lies upon a Writ of Waste sued, and when. See Tit. *Estrepiement*.

Where a Condition annexed to an Estate, &c. that the Lessee, or &c. shall not waste, is good; where and to what Estate not. See Tit. *Condition*.

Where ancient Demean is a good Plea in a Writ of Waste. See Tit. *Ancient Demean*.

*Water.*

Where Action of the Case lies for not repairing of Banks, or &c. by Cause of which the Land of the Plaintiff is surrounded with Water. B. 10. 139, 140. See Tit. *Action of the Case*.

Where Action of the Case, or Nuisance lies for diverting, or stopping Water to his Mills, or &c. B. 4. 86. See Tit. *Action of the Case, and Nuisance*.

Where Affize lies of a Piscary, and the Form of the Pleint. B. 8. 48. See Tit. *Demand*.

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*Way.*

Where Affize lies of a Way, or not. B. 8. 46, 47.

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*Witnesses.*

Where Witnesses shall be joined to an Inquest, and the Consequence of it. B. 9. 32.

Where Trial shall be by Inquest with Witnesses. B. 9. 32.

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Perjury in Witnesses, and how to be punished. See Tit. *Perjury*.

Where a Man shall have Averment without, to make Proof by Witnesses of another Use, than that contained within the Deed, or not. See Tit. *Averment*.

Where Uses may be averred and proved by Witnesses, as well upon Recoveries, or Fines, as Assurances below. See Tit. *Assurances*.

Where the Intent of the Devisor may be averred and proved by Witnesses by Matter out of the Testament, or not. See Tit. *Devise*.

Where Demurrer shall be upon Evidence by Witnesses. See Tit. *Demurrer*.

*Wood, Trees, Timber.*

Where a Gift, or Sale of Trees growing by Tenant in Tail, shall bind the Issue, and the Vendee may take the Trees, and where and when not. B. 11. 50.

Where a Gift, or Sale of Trees, or &c. by the Lessor during the Term of Lessee for Years, or &c. shall be good, or not. B. 4. 62, 63. b. 11. 48.

In whom shall the Property of the Trees be during a Lease for Years, or &c. in the Lessor, or Lessee. B. 4. 62, 63. b. 5. 2 p. 76. b. 11. 48, 51, 81. See Tit. *Property*.

Exception of Trees, Wood, or Underwood by Lessor, upon a Lease for Years, or &c. what shall the Exception leave to the Lessee, what to the Lessor. B. 4. 62, 63. b. 5. 2 p. 11, 12, 25. b. 8. 63, 64. b. 11. 48, 49, 50. See Tit. *Exception, and Reservation*.

In whom shall the Property of the Trees be during the Term upon a Lease made without Impeachment of Waste. See Tit. *Waste, and Exposition*.

What shall be Waste in Trees by Lessee for Years, and what Botes the Lessee shall have as Incidents to his Lease. See Tit. *Waste*.

Which, or Lessor, or Lessee shall have the Windfalls, &c. during the Term. See Tit. *Leases*.

How a Condition, or Covenant upon a Lease, &c. to leave Houses, or Woods in as good Plight, as he received them, shall be performed, or broken. See Tit. *Conditions*.

Grant of so many Loads of Wood to be taken by Assignment of the Grantor, how to be construed. B. 5. 2 p. 25.

Where and of what Trees Tithes shall be paid, and of what not. See Tit. *Attachment upon Prohibition*, and *Tithes*.

What Remedy for the Lessor against the Lessee at Will, who cuts the Trees, and wastes the Woods. See Tit. *Tenant at Will*, and *Action upon the Case*.

Concerning the Preservation and Conservation of Woods, Copies, and Springs. See 22 E. 4. c. 7. 35 H. 8. c. 17. Tit. *Statutes*, and the Exposition of these Statutes there.

How a Condition, or Grant to have 20 Loads of Wood out of a Wood, shall be performed. See Tit. *Conditions*.

Where a Demand in *Præcipe quod reddat*, or Plaintiff in Assize shall be of a Wood. See Tit. *Demand*.

How and in what Manner Men residing within the King's Forests may use and occupy their Lands; how, and in what Manner not. See Tit. *Forests*.

Where a Grant, Gift, Devise, or &c. by him to whose Use, &c. by Stat. 1 R. 3. of Trees shall be good, or not. See Tit. *Uses*, and *Statutes*, the Statutes there.

Where Trees shall be accounted Chattels, or not. See Tit. *Chattels*.

Where Custom of Copyhold Land shall be good, and extend to Woods, &c. See Tit. *Copyhold*.

*Wreck.*

Where and what Goods shall be said Wreck, what not. B. 5. 2 p. 106, 107. See Tit. *Stat. W. 1. c. 4.* there.

Where Prescription to have Wreck of the Sea shall be good, and Wreck claimed by Prescription. B. 5. 2 p. 106, 109. See Tit. *Prescription*.

Claim by Grant of the King. B. 5. 2 p. 106.

Where the King shall have it by his Prerogative, and Whales and Sturgeons. See Tit. *Statutes*, and *Prerogative*, c. 11. and the Books there.

Where and within what Time the Owner ought to claim, and whose Non-claim shall not hurt them, whose shall. See Tit. *Continual Claim*, *Enfant*, *Baron and Feme*, and *Laches*.

How the Year and Day for the Owner to make his Claim upon Wreck shall be accounted. See Tit. *Computation*.

*Writ to the Bishop.*

Where the Writ to the Bishop shall be awarded for the Defendant upon the Plaintiff's Writ abating, or not. B. 7. 27.

Where the Writ to the Bishop shall be awarded for the Defendant upon Nonsuit of the Plaintiff, or not.

Where the Writ to the Bishop shall be awarded where the Church is full of the Collation of the Ordinary, or &c. and that as well after the Six Months as before. B. 6. 29, 49, 50. See Tit. *Presentment to a Church*, and *Incumbent*.

Where the Writ to the Bishop against the Plaintiffs, or Defendants shall be awarded, and tho' it be awarded, Execution cease until Issue joined by the other, be tried, or not. B. 6. 46. b. 7. 25. b. 10. 54. See Tit. *Judgment*.

Where upon the Writ to the Bishop the Incumbent shall be removed, or not. B. 6. 29, 30, 49 to 52. See Tit. *Incumbent*.

Where and upon what Plea of the Ordinary, or Incumbent, the Writ to the

the Bishop shall be awarded, or not. B. 6. 49. b. 7. 25. b. 10. 54.

Where the Writ to the Bishop shall be awarded to the Bishop of the Diocese, &c. or not, but to the Metropolitan, or Vicar general of the Bishop, or Warden of the Spiritualities, the Seat being vacant, or not. B. 6. 49, 58.

Where the Writ, or Process awarded to the Bishop be returnable, and are to be returned by him, and what shall be a good Return. B. 6. 52.

Where the Writ to the Bishop shall be awarded upon Issue never accoupled in lawful Matrimony, and what Certificate to the Bishop, upon this shall be good, what not. See Tit. *Certificate of the Bishop*.

Where to be awarded to the Bishop upon Bastardy to be tried, or not. See Tit. *Bastardy*.

Upon Refusal of a Clerk presented, and to whom, &c. B. 5. 9, 11.

Where to be awarded upon Trial of Issue joined upon Admission and Infrustration, or not. See Tit. *Trial*.

Where to be awarded upon Issue joined upon Installing, or not. See Tit. *Trial*.

Where to be awarded upon Issue full, or not full, or not. See Tit. *Trial*.

Where to be awarded to trie the Issue upon Profession, or Deprivation. See Tit. *Deprivation*, and *Trial*.

Where to be awarded to trie the Issue able, or not able. See Tit. *Trial*.

Where to be awarded to certify Excommunication, and what Certificate of the Bishop of Excommunication shall be good and allowable, what not. See Tit. *Excommunication*.

Where the Writ to the Bishop shall not be awarded, till Collusion be inquired in *Quare Impedit*. See Tit. *Execution*, *Judgment*, and *Collusion*.

Where the Writ to the Bishop shall not be awarded for the Defendant without Title made. See Tit. *Title*.

*Writ.*

Whence called a Brief. B. 3. 44. b. 5. 2 p. 127. b. 10. Epistle.

Where the King or Queen's Writ shall abate for Fault of Form, false Latin, or Matter, or not. B. 7. 50, 31. b. 8. 26, 156. See Tit. *Amendment*.

Where a Writ shall be, With Force and Arms, or against the Peace; without With Force and Arms. B. 4. 11. b. 9. 11, 50, 76.

What Name shall be accounted a Name of Dignity, and where a Man, or Woman shall be named in a Writ by such Name, or not. B. 4. 118. b. 6. 53, 54. b. 7. 15, 34. b. 8. 16, 17. b. 9. 117. See Tit. *Name*.

By what Name a Body corporate shall be named in a Writ, by, or against it. B. 6. 65. b. 11. 20, 21. See Tit. *Corporation*. b. 10. 126.

Where the Master of an Hospital, Dean, or such like shall be sued by Name, without the Name of any Church, and where they shall be sued by such Name. B. 11. 20, 21, 22.

Where in a Writ the Plaintiff, or Defendant are to be named by their Surname, or not. B. 11. 22. See Tit. *Corporation*.

Where a Monk, Fryar, or Canon, or Subprior shall sue and be sued alone without their Sovereign, or not. B. 74, 75. See Tit. *Abbot*.

Where the Monk shall have an Action against an Abbot, or Prior, the Chapter against the Dean, or Vicar against the Parson. B. 3. 74, 75. b. 5. 17.

Where the Price and Value of a Thing shall and ought to be put into a Writ, and by what Words, or not. B. 8. 126. b. 9. 55.

Where Surplusage in the Writ shall abate it, or not. B. 7. 40. b. 8. 26. See Tit. *Variance*, and *Surplusage*.

Where a Writ demands one Thing twice, or one Thing out of another, not good, and shall abate for it. B. 8. 49.

Where a Man shall join two Wrongs in one Writ, or two Things at several Natures, or demand Land by several Titles, or not, in one Writ. B. 8. 87. See Tit. *Joining in Action*.

Where

Where it is a good Plea to abate a Writ to say There are Two Towns, Manors, or Churches, and none without Addition. B. 6. 65, 66.

Where a Writ shall abate, because purchased, hanging another, and when a Writ shall be said to hang, when, and where not. B. 4. 47. b. 5. 2 p. 47, 61. b. 7. 30.

In what Places and Counties Writs shall and ought to be brought. B. 7. 1, 2.

Where a Writ shall be brought in the Confine of the County, and what Writs, and what not. B. 4. 4. b. 7. 3.

Where a Forſprike shall and ought to be in a Writ, or not. B. 3. 53. b. 5. 2 p. 11. b. 9. 53. b. 11. 47, 49.

Where a Writ shall abate for false Latin, for Want of a Syllable, where the Plural Number is put for the Singular, or contrary, or not. B. 4. 40. b. 5. 2 p. 45, 121. b. 7. 27. b. 8. 159. b. 9. 48. b. 10. 133. See Tit. *False Latin*.

Where a Writ shall abate for Default, or Omission of Matter, and what shall be said Matter to abate a Writ, what not. B. 8. 88. See Tit. *Formedon*.

Where and in what Writs Darrein Seisin in the Demandant himself, or in another to whom the Plaintiff hath not made himself Heir, shall abate the Writ, and in what not. B. 6. 7, 8, 88. See Tit. *Formedon*.

Where a Writ shall abate by Act of the King, or Pope, as by making the Plaintiff, or Defendant Knight, Bishop, or *&c.* B. 6. 10. b. 7. 27.

Where a Writ shall abate by Resignation, having the Writ, or not. B. 3. 78. See Tit. *Collusion*.

Where a Recovery, or Entry by a Stranger shall abate a Writ, or not. B. 8. 132, 133.

Where a Writ shall abate in Part. B. 11. 5, 45.

Where a Writ shall abate by Confession of the Plaintiff, or Demandant, or by his Replication, or not. B. 3. 1. b. 5. 2 p. 18. b. 9. 53. b. 11. 45.

Where a Writ shall abate against

one Plaintiff, or Demandant, and stand good for the other, and where it shall abate against both. B. 5. 2 p. 18, 97, 98. b. 8. 159.

Where a Writ shall abate by Death of a Stranger to the Writ, or not. B. 7. 29, 30.

Where a Writ shall wholly abate by Death of one of the Plaintiffs or Demandants, Tenants or Defendants. B. 5. 2 p. 18, 97.

Where the Verdict shall abate the Writ, or not. B. 3. 1.

Where the Court of Office shall abate the Writ, tho' the Party make Default, say nothing, or will affirm it to be good, or not. B. 3. 81, 84.

Where a Writ shall abate by Death of the King, or not. B. 7. 29, 30. See Tit. *Statutes*, 1 E. 6. c. 7. there.

Form of the Writ of Debt by, or against Executors, or Administrators, and what Matter shall be sufficient to abate it, or not. B. 8. 159. b. 9. 3. See Tit. *Debt*. b. 5. 2 p. 32, 36.

Where the Writ shall be general, and Count special. B. 1. 2, 47, 112, 137, 174. b. 2. 37. b. 5. 2 p. 34, 35, 61, 102, 127. b. 6. 75. b. 8. 33, 48, 49. b. 10. 136. b. 11. 80.

What Writs comprehend the Title, what not. B. 8. 86, 87. See Tit. *Formedon*. b. 5. 2 p. 53. b. 9. 11.

Where a Writ shall be good, because of Intendment, or not. B. 3. 44. b. 8. 119. See Tit. *Entendment*.

Of Affize, and what Matter is sufficient to abate it, what not. B. 4. 37. b. 7. 3, 24. b. 8. 49. See Tit. *Affize*.

Where a Writ, or Plaint shall be in the Disjunctive, such Thing, or such Thing, or not. B. 2. 37. b. 5. 2 p. 22, 40. b. 6. 36. b. 10. 127, 128. See Tit. *Demandis*, *Annuity*, and *Plaint*.

Of Maintenance, and what Matter shall be sufficient to abate it. B. 3. 1. See Tit. *Maintenance*.

Form of the Writ of Valour of Marriage, and where it lies, or not. B. 5. 2 p. 127. b. 6. 70, 75. See Tit. *Ward*.

Where and what Writs abate for Default of Form, what not. B. 8. 48, 157, 159. See Tit. *Form*.



Form of Appeals, and what Matter is sufficient to abate them, what not. B. 4. 39, 47. See Tit. *Appeals*.

Writ of Action upon the Case, and what Matter is sufficient to abate it, what not. B. 5. 2 p. 37. See Tit. *Action of the Case, and Variance*.

Writ of Covenant, and what Matter is sufficient to abate it, what not. B. 5. 2 p. 18. See Tit. *Covenant*.

Writ of Dower, and the Form of it, and what Matter is sufficient to abate it, what not. B. 6. 57. b. 7. 38. b. 9. 17. See Tit. *Dower*.

Writ of Error, and what Matter is sufficient to abate it. B. 3. 1, 2. See Tit. *Error*.

Writs of Formedon in Descender, Remainder, or Reverter, and what Matter is sufficient to abate them. B. 8. 86, 87, 159. See Tit. *Formedon*.

Writ of Ward, and what Matter is sufficient to abate it, what not. B. 5. 2 p. 18, 97, 127. b. 8. 86.

Writ of Escheat, and what Matter shall be sufficient to abate it, what not. B. 8. 86, 87. See Tit. *Escheat*.

Writ of *Cessavit*, and what Matter shall be sufficient to abate it, what not. B. 8. 86. See Tit. *Cessavit*.

Writ of *Q. Impedit*, and what Matter is sufficient to abate it, what not. B. 5. 2 p. 97, 98. b. 6. 49. b. 7. 25, 26, 27, 31. See Tit. *Q. Impedit*.

Writs of Debt, and what Matter is sufficient to abate them. See Tit. *Debt*.

Writs of Waste, and what Matter is sufficient to abate them. See Tit. *Waste*.

The Order to be observed in Writs of *Præcipe quod reddat*, for the Parcels and Things demanded, and where the Writ shall abate for disordering them, or not. See Tit. *Demands*.

Where a Writ shall abate for joining, or not joining in Action. See Tit. *Joining in Action, and Baron and Feme*.

Where a Writ shall abate for Mismaming a Person, or Place. See Tit. *Mismaming*.

Where a Writ shall abate for Variance of the Deed, Obligation, or Record, or not. See Tit. *Variance*.

Where a Writ shall be made good

by Relation of Words; or not. See Tit. *Relation*.

Where the Writ of *Præcipe quod reddat* lies of an Advowson. See Tit. *Advowson*.

Where a *Præcipe quod reddat* lies of a Portion of Land, Croft, Cottage, Garden, or &c. or not. See Tit. *Demands*.

Where and what Writs upon Statutes ought to rehearse the Statute, &c. where and what not. See Tit. *Action upon the Statute*.

Where and what Actions given by Statute shall be sued and maintained within a Franchise, where and what not. See Tit. *Action upon Statutes*.

Where a Writ shall abate for Default of Form, or not. See Tit. *Form*.

Where a Demand by Writ may be of 20 Acres in gross, or by two, or three Parts, or the Moiety. See Tit. *Demands*.

Where a Man may have a Writ of Entry in the *per, cui*, or *post* at his Election. See Tit. *Entry*, and *Writ of Entry*.

Where those Words with the Appurtenances shall be put into a Writ, or Plaint. See Tit. *Plaint*, and *Appendant*.

Where a Writ original, or judicial shall be directed to the Sheriff, notwithstanding he be Plaintiff, or Defendant, or not, but to the Coroners. See Tit. *Coroners*.

Where a Writ of Debt shall be in the *Debet*, and *Detinet*, or in the *Detinet* only. See Tit. *Debt*.

Where a Writ original, or judicial shall be amended, or not. See Tit. *Amendment*.

Where and what Writ lies, or shall be maintained by or against an Assignee. See Tit. *Assignee*.

Where and what Writ lies, or shall be maintained by or against an Ordinary. See Tit. *Ordinary*.

Of Limitation of Time in a Writ, and where, and which are to comprehend and make Mention of Time of Limitation, which not. See Tit. *Limitation*.

Where

Writ.

Where a Man may have and maintain one Action or other at his Election upon the same Case, or not. See Tit. *Election*.

Where and what Pleas in Abatement of a Writ shall the Disseisor have, or not. See Tit. *Disseisin*.

What Pleas the Incumbent shall have in Abatement of a *Q. Impedit*, what not. See Tit. *Encumbent*.

What Pleas the Bishop shall have in *Q. Impedit*, what not. See Tit. *Q. Impedit*.

The Manner of Judgment when a Writ abates. See Tit. *Judgment*.

Where the Writ abates not, but Judgment shall be given against a dead Man. See Tit. *Judgment*.

How and to what Day shall a Writ have Relation. See Tit. *Relation*.

Form of the Writ of Conspiracy, and what Matter shall be sufficient to abate it, what not. See Tit. *Conspiracy*.

Where Fifteen Days must be betwixt the Test of the Writ and the Return, and in what Writs the Summons or Attachment must be Fifteen Days before the Return, in what not. See Tit. *Day*.

Writ of *Scire facias*, and what Matter is sufficient to abate it, what not. See Tit. *Scire facias*.

Of Mort d'Ancestor, and the Form of it, and what Matter shall be sufficient to abate it, what not. See Tit. *Mort d'Ancestor*.

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